

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

BASS ENTERPRISES, LLC and
PHILLIP WAYNE BASS,

Plaintiffs,

v.

PENNSTAR, LLC, et al.

Defendants.

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*
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*

Case No.: CV-2014-900196

CIRCUIT COURT
BALDWIN COUNTY, AL

FILED

SEP 15 2017

JODY W. CAMPBELL
CIRCUIT CLERK

AFFIDAVIT OF LINDSEY C BONEY, III

STATE OF ALABAMA:

COUNTY OF MOBILE:

1. My name is Lindsey C Boney, III. I was retained by Bass Enterprises and its counsel to review the purchase of the Nolte property, along with other real estate transactions and events. I am a certified public accountant and certified fraud examiner.

2. The chart attached hereto as Exhibit A summarizes the flow of money on the day of the closing of the Nolte property based on the HUD-1 Settlement Statements, Bay Title's bank records, and financial records produced by the parties. The chart attached hereto as Exhibit B summarizes the flow of money before and on the day of the closing of the Nolte property based on the HUD-1 Settlement Statements, Bay Title's bank records, and financial records produced by the parties.

3. The chart attached hereto as Exhibit C summarizes the corporate relationships among the Defendants.

4. The chart attached hereto as Exhibit D summarizes the corporate relationships among certain non-parties.

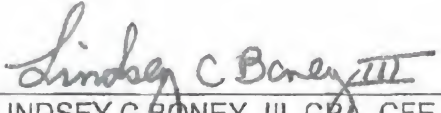
5. The HUD-1 Settlement Statements related to the purchase of the Nolte property are attached hereto as Exhibit E. Pennstar produced Bates nos. 21A-22A, 23A-24A, 25A-26A, 27A-28A and Bass Enterprises produced Bates no. 93-94.

6. The Warranty Deed from Hopper Land Development South, LLC to Pennstar, LLC and Bass Enterprises, each owning a ½ undivided interest, as tenants in common, is attached hereto as Exhibit F. The Warranty Deed from the Nolte family to Hopper Land Development South, LLC is attached hereto as Exhibit G.

7. The purchase contract between the Nolte family and Bill Springer and Michael Weiss is attached hereto as Exhibit H. The assignment of the purchase contract and amended assignment is attached hereto as Exhibit I.

Further Affiant sayeth not.

Dated this 14th day of September, 2017.

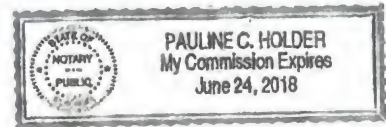

LINDSEY C BONEY, III, CPA, CFE, CVA

Sworn and subscribed before me on this 14th day of September, 2017.

Pauline C. Holder

Notary Public

My Commission Expires: _____



**Nolte Family
(Grantor)**

**Hopper Land Development
South, LLC
(Grantee)**

**\$2,440,125.65
Deposit**

**Bay Title Closing
File
#BTG-0509-11139**

1. \$5,340.00 Check #533500
Bay Title Insurance Company
2. \$2,459.00 Check #533501
Bay Title Insurance Company
3. \$65.00 Check #533502
David P. Stepan, P.C.
4. \$302,100.00 Check #533505
H.C. Schmieding Produce, Inc.
5. \$369.60 Check #533506
James P. Nix Revenue Commissioner
6. \$5,695.00 Check #533507
Survey Concepts
7. \$44,179.01 Check #533508
U.S. Dept. of Agriculture
8. \$141,968.70 Check #533509
U.S. Dept. of Agriculture
9. \$146,400.00 Check #533510
Exit Realty
10. \$500.00 Check #533511
Exit Realty
11. \$1,758,842.34 Check #533588
Sellers - Nolte Family
12. \$32,207.00 Check #533589
U.S. Dept. of Agriculture

**Total Disbursement
\$2,440,125.65**

**Hopper Land Development
South, LLC
(Grantor)**

**Pennstar, LLC
(Grantee)**

**Bass Enterprises, LLC
(Grantee)**

**\$2,405,340.32
Pennstar, LLC
\$2,442,535.33
Bass Enterprises, LLC
\$37,195.00
Exit Realty
\$700,000.00
Pennstar, LLC**

**Pennstar, LLC
Bay Title Closing
File
#BTG-0510-11416**

Bass Enterprises, LLC

1. \$2,440,125.65 Check #533492
Bay Title as Escrow Agent
2. \$10,110.00 Check #533493
Bay Title Insurance Company
3. \$4,899.00 Check #533494
Bay Title Insurance Company
4. \$344,437.50 Check #533495
Bill Springer
5. \$65.00 Check #533496
David Stepan, P.C.
6. \$2,417,066.00 Check #533497
Hopper Land Development South, LLC
7. \$344,437.50 Check #533498
Michael Weiss
8. \$23,930.00 Check #533499
Pennstar, LLC

**Total Disbursement
\$5,585,070.65**

EXHIBIT

A

Re: Bass Enterprises LLC et. al. v. Pennstar, LLC et. al.
in the Circuit Court of Baldwin County, Alabama

Summary of Financial Activity Related to the Nolte Transaction

	Buyer	Seller
At signing of purchase agreement between Springer, Weiss and Nolte family: Mr. Springer and Mr. Weiss deposit earnest money at Exit Realty	\$ 40,000.00	
At assignment of option to purchase from Springer and Weiss to Pennstar, LLC:		
Pennstar issues check to Mr. Springer for assignment of option	25,000.00	\$ 25,000.00
Pennstar issues check to Mr. Weiss for assignment of option	25,000.00	25,000.00
Pennstar issues check to Bay Title for an escrow deposit	700,000.00	
Bay Title Escrow Account Activity on October 28, 2005:		
Bass Enterprises, LLC presents a bank-issued check to Bay Title	2,442,535.33	
Pennstar, LLC issues a check to Bay Title	2,405,340.32	
Bay Title issues checks from their escrow account:		
Payment of commission to Exit Realty from Nolte proceeds		146,900.00
Payments to, or on behalf of, the Nolte Family		2,282,102.05
Payment to Hopper Land Development South, LLC		2,417,066.00
Payments to Mr. Springer and Mr. Weiss		688,875.00
Payment to Pennstar, LLC		23,930.00
Payments to Bay Title for Title Insurance - per closing statements		15,000.00
Title insurance (See invoice at Pennstar Production 00157A)	\$ 5,090.00	
Unknown purpose	9,910.00	
Payments to Bay Title for closing fees, document preparation and couriers		580.00
Payments to Baldwin County Probate for recording fees		7,358.00
Payment to Surveyor		5,695.00
Payment of taxes		369.60
	<u>\$ 5,637,875.65</u>	<u>\$ 5,637,875.65</u>
Net Money Paid:		
Bass Enterprises, LLC	\$ 2,442,535.33	
Net Pennstar, LLC (\$750,000 + \$2,405,340.32 - \$2,417,066.00 - \$23,930.00)	714,344.32	
Total cost of property	<u>\$ 3,156,879.65</u>	



Management

Magnolia River
Management,
LLC

(Manager)

Summit
Construction
Company, Inc.

(Manager)

Clarence Burke
(President)

Pennstar, LLC

50%

Alliance, Ltd.

David DeLaney
(General Partner)
Michael DeLaney
(Limited Partner)
Robin DeLaney
(Limited Partner)
Bryan DeLaney
(Limited Partner)

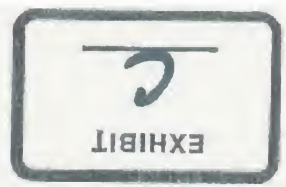
50%

Wolf Creek
Industries, Inc.

Clarence Burke
(100%)

Principal
Attorney

Michael DeLaney



Management

Summit Construction Company, Inc.
(Manager)

Clarence Burke
(President)

Baldwin County Sewer Services, LLC

43.5%

Alliance, Ltd.

David DeLaney
(General Partner)

Michael DeLaney
(Limited Partner)

Robin DeLaney
(Limited Partner)

Bryan DeLaney
(Limited Partner)

43.5%

Wolf Creek Industries, Inc.

Clarence Burke
(100%)

11%

Supersonic, LLC

2%

John Foley

Principal Attorney

Michael DeLaney

Management

**Small
Business
Management
Corporation
(Manager)**

**David DeLaney
(President)**

**Michael DeLaney
(Vice President)**

Alabama Capital, LLC



**Principal
Attorney**

Michael DeLaney

Principal
Attorney

Michael DeLaney

Magnolia River
Management, LLC



Management



**Summit Construction
Company, Inc.**

**Principal
Attorney**

Michael DeLaney

98%

Dorie Burke

2%

Clarence Burke

Management

**Clarence Burke
(President)**

**Dorie Burke
(Treasurer/
Secretary)**



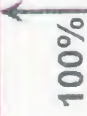
Management

David DeLaney
(President)



Michael DeLaney
(Vice President)

**Small Business
Management Corporation**



**First Small Business
Company of Alabama, Inc.**

**Principal
Attorney**

Michael DeLaney

Principal
Attorney

Michael DeLaney

**Wolf Creek
Industries, Inc.**

100%

Clarence Burke

Management

Clarence Burke
(President)

Dorie Burke
(Secretary)

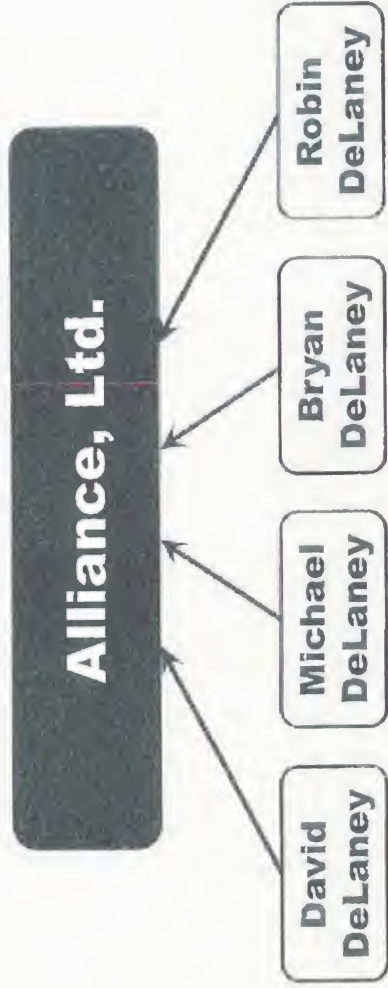
Management

David DeLaney
(General Partner)

Michael DeLaney
(Limited Partner)

Bryan DeLaney
(Limited Partner)

Robin DeLaney
(Limited Partner)



**Principal
Attorney**

Michael DeLaney

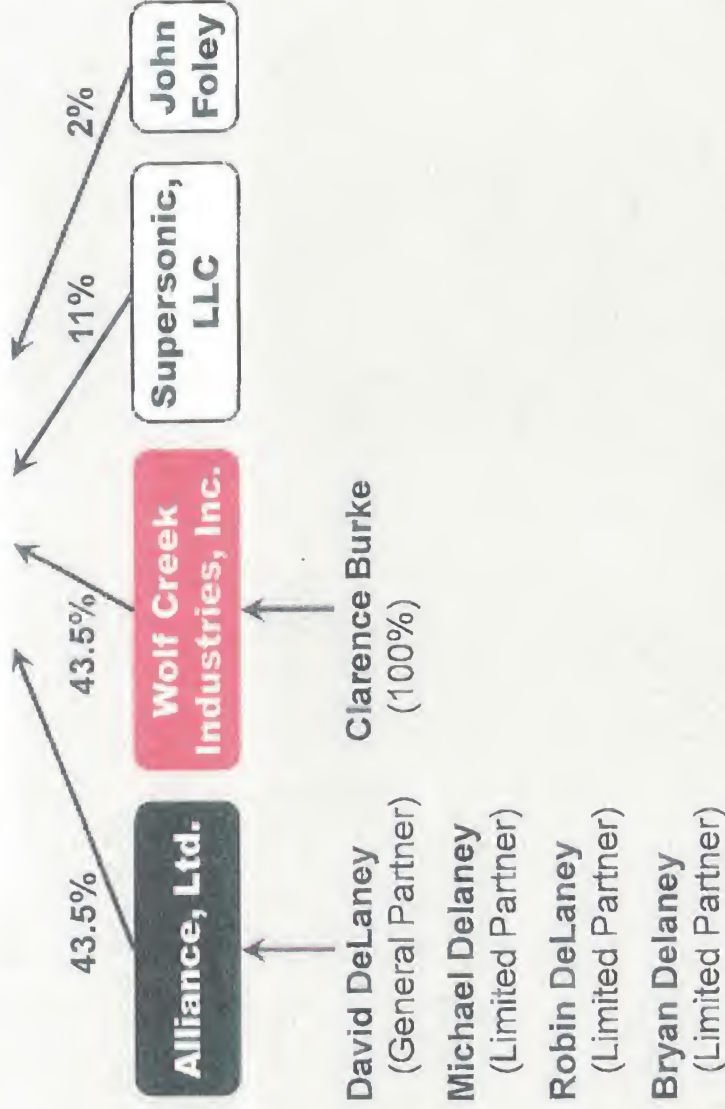
Management

**Magnolia River
Management,
LLC**
(Manager)

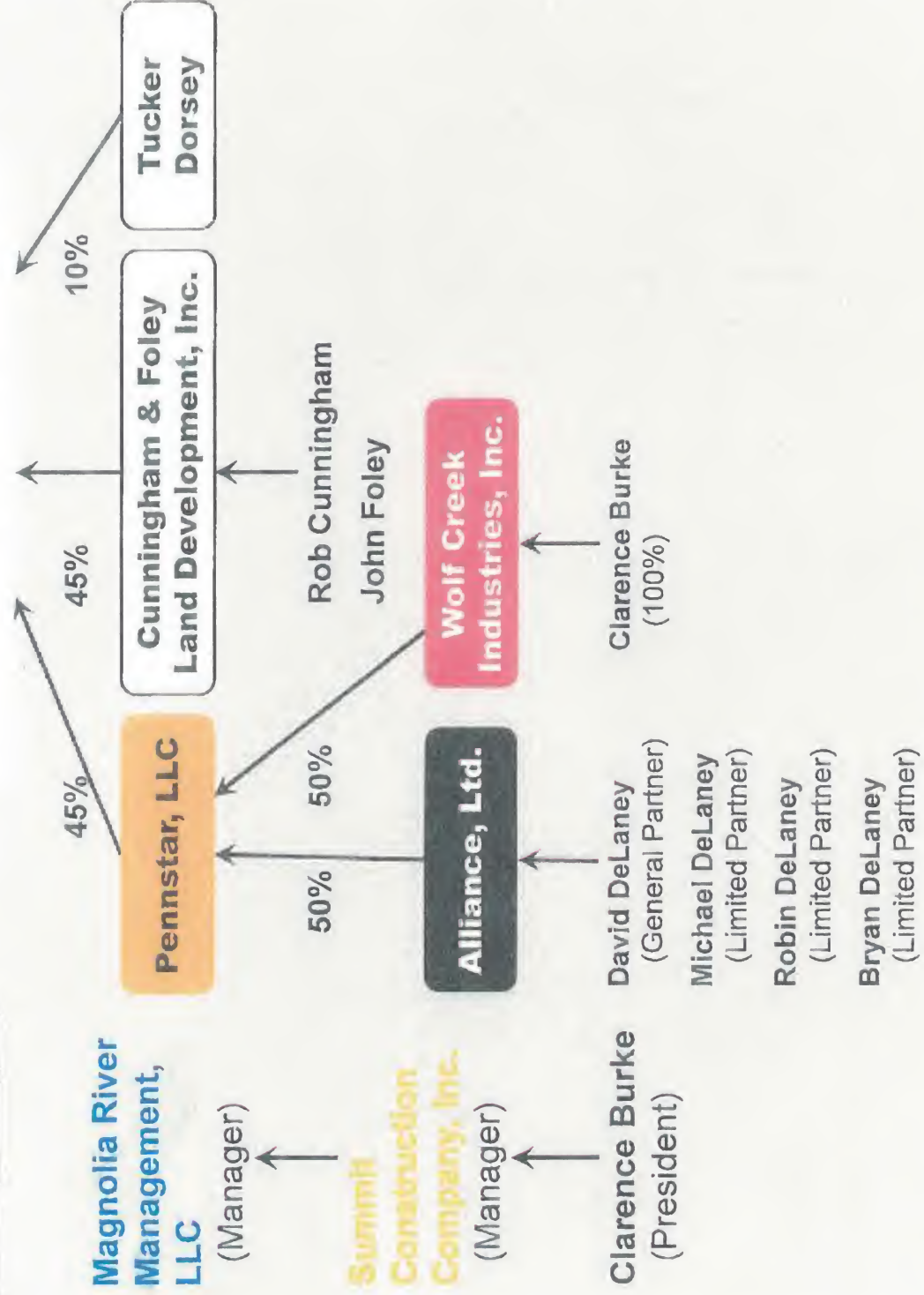
**Summit
Construction
Company, Inc.**
(Manager)

Clarence Burke
(President)

Sausasand, LLC



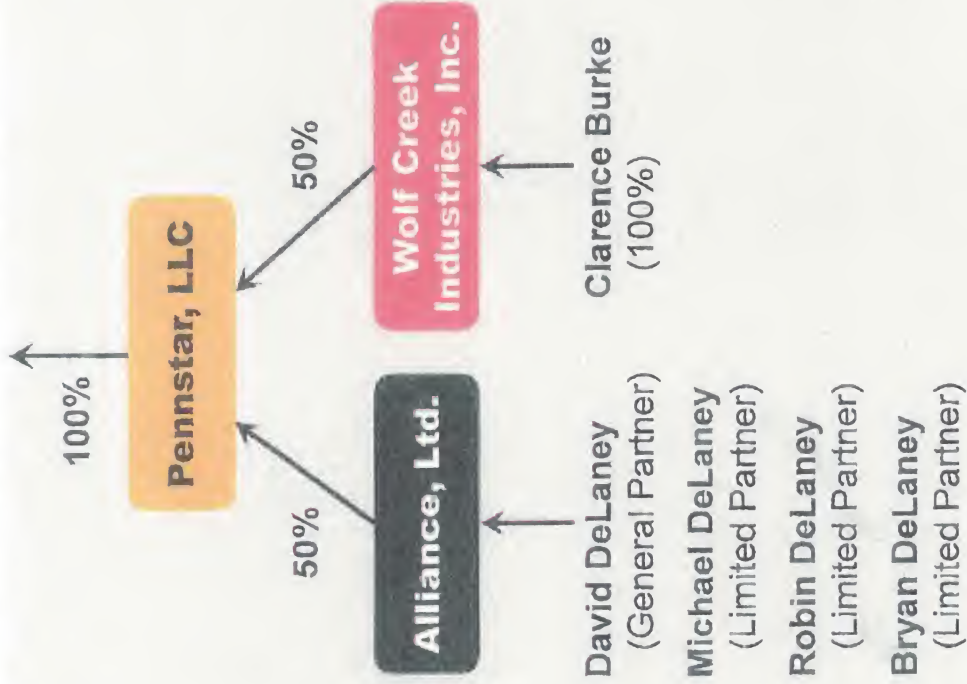
Management

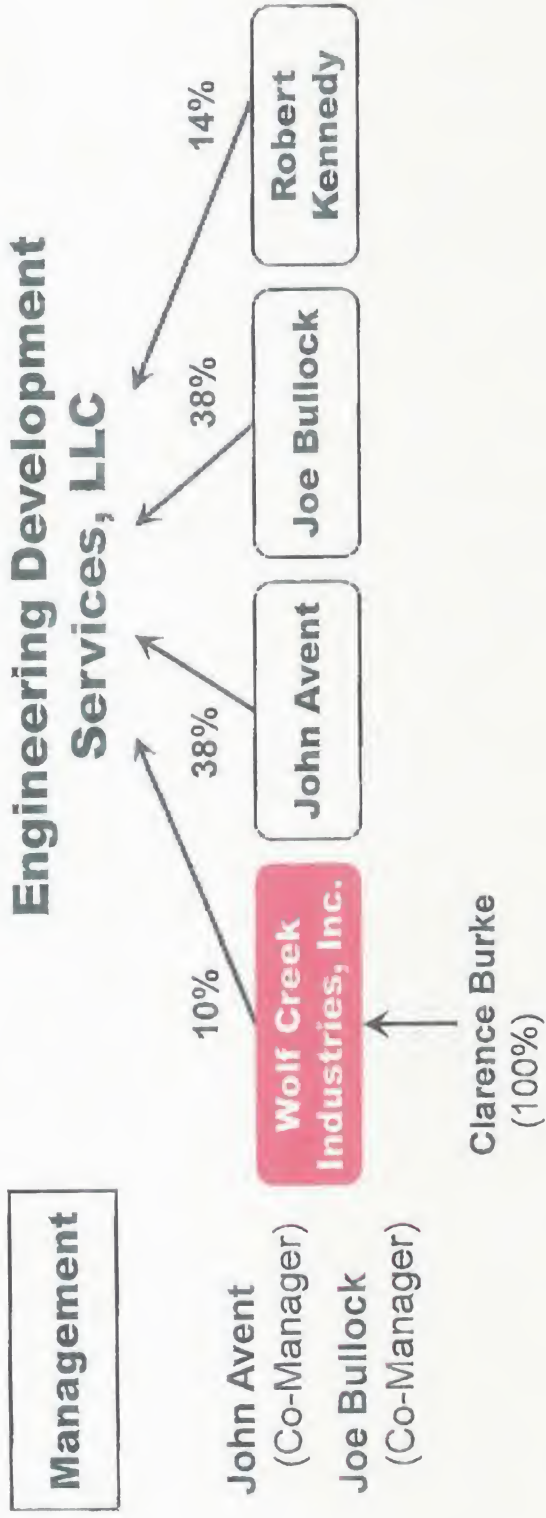


Management

Wayne Hopper

**Hopper Land
Development South, LLC**





Management

**Magnolia River
Management,
LLC**

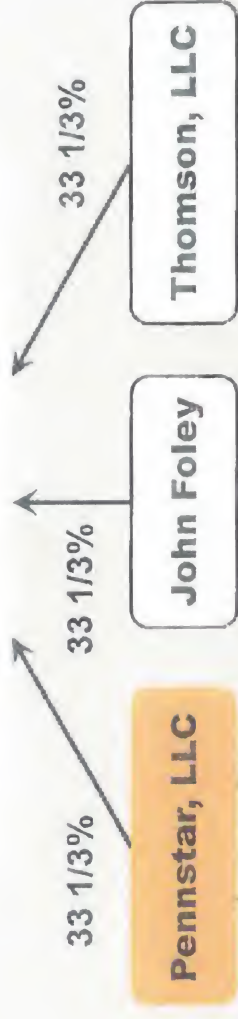
(Manager)

**Summit
Construction
Company, Inc.**

(Manager)

**Clarence Burke
(President)**

Crossroads, LLC



Pennstar, LLC

50%

Alliance, Ltd.

David DeLaney
(General Partner)

Michael DeLaney
(Limited Partner)

Robin DeLaney
(Limited Partner)

Bryan DeLaney
(Limited Partner)

**Wolf Creek
Industries, Inc.**

Clarence Burke
(100%)

50%

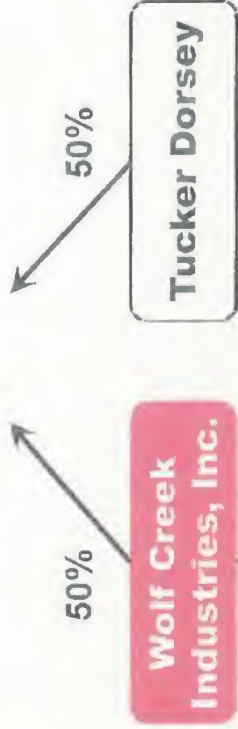
Management

Summit
Construction
Company, Inc.

(Manager)

Clarence Burke
(President)

Remington, LLC



Wolf Creek
Industries, Inc.

Clarence Burke
(100%)

5310 (REV. 11-83) (INSTRUCTIONS) 1-83
FD-505 (TTT39)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SETTLEMENT STATEMENT PAGE 2

L. SETTLEMENT CHARGES:				PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700.	TOTAL SALES/BROKER'S COMMISSION based on price \$ 2,440,000.00 @ 6.00 % = 146,400.00				
Division of commission (line 700) as follows:					
701.	146,400.00	to	Exit Realty		
702.		to			
703.	Commission paid at settlement				146,400.00
704.		to	Exit Realty		250.00
800.	ITEMS PAYABLE IN CONNECTION WITH LOAN				
801.	Loan Origination Fee	% of	to		
802.	Loan Discount	% of	to		
803.	Appraisal Fee		to		
804.	Credit Report		to		
805.	Lender's Inspection Fee		to		
806.	Underwriting Fee		to		
807.	Doc Preparation Fee		to		
808.	Tax Service Fee		to		
809.	Flood Certification Fee		to		
810.			to		
811.			to		
812.			to		
813.			to		
900.	ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE				
901.	Interest from		to	@ \$	/ day
902.	Mortgage Insurance premium for		to		
903.	Hazard Insurance premium for		to		
904.			to		
905.			to		
1000.	RESERVES DEPOSITED WITH LENDER FOR				
1001.	Hazard Insurance	mo. @ \$		/mo.	
1002.	Mortgage Insurance	mo. @ \$		/mo.	
1003.	City property taxes	mo. @ \$		/mo.	
1004.	County property taxes	mo. @ \$		/mo.	
1005.	Annual assessments	mo. @ \$		/mo.	
1006.		mo. @ \$		/mo.	
1007.		mo. @ \$		/mo.	
1008.	Aggregate Escrow Adjustment				
1100.	TITLE CHARGES				
1101.	Settlement or closing fee		to		
1102.	Abstract or title search		to		
1103.	Title examination		to		
1104.	Title insurance binder		to		
1105.	Document preparation		to	David P. Stepien, P.C.	65.80
1106.	Notary fees		to		
1107.	Attorney's fees		to		
	(includes above items No.)				
1108.	Title Insurance		to	Bay Title Insurance Company	5,090.00
	(includes above items No. 1102, 1103 and 1104)				
1109.	Lender's coverage \$				
1110.	Owner's coverage \$ 2,440,000.00				
1111.	Document Printing Fee				
1112.	Courier Fee				
1113.	Reissue Credit				
1200.	GOVERNMENT RECORDING AND TRANSFER CHARGES				
1201.	Recording fees	Deed \$ 19.00 ; Mortgage \$; Release \$			
1202.	City/County tax/stamps:	Deed \$; Mortgage \$			
1203.	State tax/stamps:	Deed \$ 2,440.00 ; Mortgage \$			
1204.					
1205.		to			
1300.	ADDITIONAL SETTLEMENT CHARGES				
1301.	Survey		to	Survey Concepts	5,695.00
1302.	Pest inspection		to		
1303.	Home Warranty		to		
1304.	2005 Taxes Ppn 86595, 13708, 31756, 68538		to	James "Phil" Nix, Jr., Revenue Commissioner	369.60
1305.			to		
1306.			to		
1307.			to		
1308.			to		
1400.	TOTAL SETTLEMENT CHARGES (enter on lines 103 and 502, Sections j and k)				
					157,869.60

CERTIFICATION: I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Hopper Land Development, Inc.

Joseph B. Smith
I have prepared a true and accurate account of this transaction. I have called the funds to

John H. Nix, Jr.
I have received a copy of the HUD-1 Settlement Statement.
John H. Nix, Jr.
Revenue Commissioner

Date: October 28, 2005

A. Settlement Statement

U.S. Department of Housing
and Urban Development

OMB No. 2502-0265

B. Type of Loan				6. File Number		7. Loan Number		8. Mortgage Insurance Case Number	
1. <input type="checkbox"/> FHA		2. <input type="checkbox"/> FmHA		3. <input type="checkbox"/> Conv. Unins.		4. <input type="checkbox"/> VA		5. <input type="checkbox"/> Conv. Ins.	
6. <input checked="" type="checkbox"/> None (Cash)				BTG-0509-11139					
C. Notes: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "p.o.c." were paid outside the closing; they are shown here for information purposes and are not included in the totals.									
D. Name and Address of Borrower				E. Name and Address of Seller				F. Name and Address of Lender	
Hopper Land Development South, LLC 1266 West Paces Ferry Road, Suite 276 Atlanta, Georgia 30327				George J. Nolie, George Mackey Nolie, Ida Nancy Nolie a/k/a Ida Sawyer Nolie and John H. Nolie					
G. Property Location						H. Settlement Agent			
SE-T7S-R36 Parcels 1, 2, and 3 apx. 247 acres +/-						BAY TITLE INSURANCE COMPANY			
						I. Settlement Date			
117 COVE AVENUE GULF SHORES, AL 36542						October 28, 2005			
J. SUMMARY OF BORROWER'S TRANSACTION:					K. SUMMARY OF SELLER'S TRANSACTION:				
101. GROSS AMOUNT DUE FROM BORROWER					400. GROSS AMOUNT DUE TO SELLER				
101. Contract sales price					401. Contract sales price				
2,440,000.00									
102. Personal Property					402. Personal Property				
103. Settlement charges to borrower (line 140)					403.				
2,959.00									
104.					404.				
105.					405.				
Adjustment for items paid by seller in advance					Adjustment for items paid by seller in advance				
106. City/town taxes to					406. City/town taxes to				
107. County taxes to					407. County taxes to				
108. Assessments to					408. Assessments to				
109.					409.				
110.					410.				
111.					411.				
112.					412.				
120. GROSS AMOUNT DUE FROM BORROWER					420. GROSS AMOUNT DUE TO SELLER				
2,442,959.00									
200. AMOUNT PAID BY OR IN BEHALF OF BORROWER					500. REDUCTION IN AMOUNT DUE TO SELLER				
201. Deposit or earnest money					501. Earnest deposit (see instruction)				
202. Principal amount of new loan(s)					502. Settlement charges to seller (line 1400)				
203. Existing loan(s) taken subject to					503. Existing loan(s) taken subject to				
204.					504. Payoff of first mortgage loan				
205.					505. Payoff of second mortgage loan				
206.					506.				
207.					507.				
208. Reimburse for Part of Survey POC					508.				
2,805.00									
209.					509.				
Adjustment for items unpaid by seller					Adjustment for items unpaid by seller				
210. City/town taxes to					510. City/town taxes to				
211. County taxes 10-01-2005 to 0-28-2005					511. County taxes to				
28.35									
212. Assessments to					512. Assessments to				
213.					513.				
214.					514.				
215.					515.				
216.					516.				
217.					517.				
218.					518.				
219.					519.				
220. TOTAL PAID BY/FOR BORROWER					520. TOTAL REDUCTION AMOUNT DUE SELLER				
2,833.35									
300. CASH AT SETTLEMENT FOR OR TO BORROWER					600. CASH AT SETTLEMENT TO OR FROM SELLER				
301. Gross amount due from borrower (line 123)					601. Gross amount due to seller (line 420)				
2,442,959.00									
302. Less amount paid by/far borrower (line 220)					602. Less reduction amount due seller (line 520)				
2,833.35									
303. CASH DUE FROM BORROWER					603. CASH SELLER				
2,440,125.65									

REV.HUD.1(3/86)

L. SETTLEMENT CHARGES:		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SENDER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$	@ % =		
Division of commission (line 700) as follows:			
701.	to		
702.	to		
703. Commission paid at settlement			
704. Compliance Fee	to Exit Realty	50.00	
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	% of to		
802. Loan Discount	% of to		
803. Appraisal Fee	to		
804. Credit Report	to		
805. Lender's Inspection Fee	to		
806. Underwriting Fee	to		
807. Doc Preparation Fee	to		
808. Tax Service Fee	to		
809. Flood Certification Fee	to		
810.	to		
811.	to		
812.	to		
813.	to		
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest from	to @ \$ /day		
902. Mortgage Insurance premium for	to		
903. Hazard Insurance premium for	to		
904.	to		
905.	to		
1000. RESERVES DEPOSITED WITH LENDER FOR			
1001. Hazard Insurance	mo. @ \$ /mo.		
1002. Mortgage Insurance	mo. @ \$ /mo.		
1003. City property taxes	mo. @ \$ /mo.		
1004. County property taxes	mo. @ \$ /mo.		
1005. Annual assessments	mo. @ \$ /mo.		
1006.	mo. @ \$ /mo.		
1007.	mo. @ \$ /mo.		
1008. Aggregate Escrow Adjustment			
1100. TITLE CHARGES			
1101. Settlement or closing fee	to Bay Title Insurance Company	200.00	
1102. Abstract or title search	to		
1103. Title examination	to		
1104. Title insurance binder	to		
1105. Document preparation	to		
1106. Notary fees	to		
1107. Attorney's fees	to		
(includes above items No.)			
1108. Title insurance	to		
(includes above items No. 1102, 1103 and 1104)			
1109. Lender's coverage \$			
1110. Owner's coverage \$ 2,440,000.00			
1111. Document Printing Fee			
1112. Courier Fee		50.00	
1113. Release Credit			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording fees	Deed \$ 19.00 ; Mortgage \$; Release \$	19.00	
1202. City/County tax/stamps	Deed \$; Mortgage \$		
1203. State tax/stamps	Deed \$ 2,440.00 ; Mortgage \$	2,440.00	
1204.			
1205.	to		
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to		
1302. Post inspection	to		
1303. Home Warranty	to		
1304. 2005 Taxn Ppin 86595, 13708, 31756 58538	to		
1305.	to		
1306.	to		
1307.	to		
1308.	to		
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103 and 502, Sections J and K)		2,959.00	

CRITIFICATION I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account by me to this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

[Signature]
George I. Nolte
Hwy 1 Land Development South, LLC

George I. Nolte

//

// Ida Nancy Nolte aka Ida Sawyer Nolte

Buyer(s)

The HUD-1 Settlement Statement which I have paid in full is a true and accurate statement of this transaction. I have earned the funds to

[Signature]
John H. Nolte

//

John H. Nolte

October 28, 2005

Settlement Agent

Not

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction, U.S. Code Section 1001 and section 1010.

REV. HUD1(3/06)

13 - U.S. TITLE INSURANCE COMPANY
May 1994 (Revised)

A. Settlement Statement

U.S. Department of Housing
and Urban Development

OMB No. 2502-0265

B. Type of Loan				7. Loan Number		8. Mortgage Insurance Case Number	
1. <input type="checkbox"/> FHA		2. <input type="checkbox"/> FmHA		3. <input checked="" type="checkbox"/> Conv. Unins.		6. File Number	
4. <input type="checkbox"/> VA		5. <input type="checkbox"/> Conv. Ins.		6. <input type="checkbox"/> None (Cash)		BTG-0510-11416	
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for information purposes and are not included in the totals.							
D. Name and Address of Borrower				E. Name and Address of Seller		F. Name and Address of Lender	
Pennstar, LLC and Bass Enterprises, LLC PO Box 1629 Poley, Alabama 36536				Hopper Land Development South, LLC			
G. Property Location				H. Settlement Agent			
S8-T7S-R36 Parcels 1,2, and 3 apx. 244 acres +/-				BAY TITLE INSURANCE COMPANY			
				Place of Settlement		I. Settlement Date	
				117 COVE AVENUE GULF SHORES, AL 36542		October 28, 2005	
J. SUMMARY OF BORROWER'S TRANSACTION:				K. SUMMARY OF SELLER'S TRANSACTION:			
100. GROSS AMOUNT DUE FROM BORROWER				400. GROSS AMOUNT DUE TO SELLER			
101. Contract sales price				401. Contract sales price 4,880,000.00			
102. Personal Property				402. Personal Property			
103. Settlement charges to borrower (line 1400)				403.			
104.				404.			
105.				405.			
Adjustment for items paid by seller in advance				Adjustment for items paid by seller in advance			
106. City/town taxes to				406. City/town taxes to			
107. County taxes to				407. County taxes to			
108. Assessments to				408. Assessments to			
109.				409.			
110.				410.			
111.				411.			
112.				412.			
120. GROSS AMOUNT DUE FROM BORROWER				420. GROSS AMOUNT DUE TO SELLER 4,880,000.00			
200. AMOUNT PAID BY OR IN BEHALF OF BORROWER				500. REDUCTION IN AMOUNT DUE TO SELLER			
201. Deposit or earnest money				501. Excess deposit (see instruction)			
202. Principal amount of new loan(s)				502. Settlement charges to seller (line 1400) 9,975.00			
203. Existing loan(s) taken subject to				503. Existing loan(s) taken subject to			
204.				504. Payoff of first mortgage loan			
205.				505. Payoff of second mortgage loan			
206.				506. Assignment of Contract 712,805.2 344,437.50			
207.				507. Assignment of Contract 344,437.50			
208.				508. Reimburse pt of EM & EM pd to Assignor 23,930.00			
209.				509. Purchase 2,440,125.65			
Adjustment for items unpaid by seller				Adjustment for items unpaid by seller			
210. City/town taxes to				510. City/town taxes to			
211. County taxes to				511. County taxes 10-01-2005 to 10-28-2005 28.35			
212. Assessments to				512. Assessments to			
213.				513.			
214.				514.			
215.				515.			
216.				516.			
217.				517.			
218.				518.			
219.				519.			
220. TOTAL PAID BY/FOR BORROWER				520. TOTAL REDUCTION AMOUNT DUE SELLER 3,162,934.00			
300. CASH AT SETTLEMENT FOR OR TO BORROWER				600. CASH AT SETTLEMENT TO OR FROM SELLER			
301. Gross amount due from borrower (line 120)				601. Gross amount due to seller (line 420) 4,880,000.00			
302. Less amount paid by/for borrower (line 220)				602. Less reduction amount due seller (line 520) 3,162,934.00			
303. CASH BORROWER				603. CASH DUE TO SELLER 1,717,066.00			

L SETTLEMENT CHARGES:

				PAID FROM BORROWER'S FUNDS AT SETTLEMENT		PAID FROM SELLER'S FUNDS AT SETTLEMENT	
700.	TOTAL SALES/BROKER'S COMMISSION based on price \$	@	% =				
Division of commission (line 700) as follows:							
701.		to					
702.		to					
703.	Commission paid at settlement						
704.		to					
800.	ITEMS PAYABLE IN CONNECTION WITH LOAN						
801.	Loan Origination Fee	% of	to				
802.	Loan Discount	% of	to				
803.	Appraisal Fee		to				
804.	Credit Report		to				
805.	Lender's Inspection Fee		to				
806.	Underwriting Fee		to				
807.	Doc Preparation Fee		to				
808.	Tax Service Fee		to				
809.	Flood Certification Fee		to				
810.			to				
811.			to				
812.			to				
813.			to				
900.	ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE						
901.	Interest from	to	@ \$	/day			
902.	Mortgage Insurance premium for	to					
903.	Hazard Insurance premium for	to					
904.		to					
905.		to					
1000.	RESERVES DEPOSITED WITH LENDER FOR						
1001.	Hazard Insurance	mo. @ \$		/mo.			
1002.	Mortgage Insurance	mo. @ \$		/mo.			
1003.	City property taxes	mo. @ \$		/mo.			
1004.	County property taxes	mo. @ \$		/mo.			
1005.	Annual assessments	mo. @ \$		/mo.			
1006.		mo. @ \$		/mo.			
1007.		mo. @ \$		/mo.			
1008.	Aggregate Escrow Adjustment						
1100.	TITLE CHARGES						
1101.	Settlement or closing fee	to					
1102.	Abstract or title search	to					
1103.	Title examination	to					
1104.	Title insurance binder	to					
1105.	Document preparation	to	David P. Stepien, P.C.			65.00	
1106.	Notary fees	to					
1107.	Attorney's fees	to					
(includes above items No.)							
1108.	Title insurance	to	Day Title Insurance Company			9,910.00	
(includes above items No. 1102, 1103 and 1104)							
1109.	Lender's coverage \$						
1110.	Owner's coverage \$	4,880,000.00					
1111.	Document Printing Fee						
1112.	Courier Fee						
1113.	Reissue Credit						
1200.	GOVERNMENT RECORDING AND TRANSFER CHARGES						
1201.	Recording fees	Deed \$	19.00	; Mortgage \$			
1202.	City/County tax/stamps:	Deed \$; Mortgage \$			
1203.	State tax/stamps:	Deed \$	4,880.00	; Mortgage \$			
1204.							
1205.		to					
1300.	ADDITIONAL SETTLEMENT CHARGES						
1301.	Survey	to	Survey Concepts (8,500.00 P.O.C./S)				
1302.	Pest inspection	to					
1303.	Home Warranty	to					
1304.		to					
1305.		to					
1306.		to					
1307.		to					
1308.		to					
1400.	TOTAL SETTLEMENT CHARGES (enter on lines 103 and 502, Sections j and k)						9,975.00

CERTIFICATION: I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Pennstar, LLC

Moyed Land Development South, LLC

Moyed Land Development South, LLC

The HUD-1 Settlement Statement

Settlement

I have prepared a true and accurate account of this transaction. I have caused the funds to

Date October 28, 2005

Signature of Agent

I warrant that I have knowingly made the statements on this or any other similar form. Penalties upon court

18 U.S.C. Code Section 1001 and section 1010.

REV. HUD-1 (3/86)

A. Settlement Statement

U.S. Department of Housing
and Urban Development

OMB No. 2502-0265

B. Type of Loan		6. File Number		7. Loan Number		8. Mortgage Insurance Case Number	
1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> FmHA	3. <input checked="" type="checkbox"/> Conv. Unins.	BTG-0510-11416A				
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv. Ins.	6. <input type="checkbox"/> None (Cash)					

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c)" were paid outside the closing; they are shown here for information purposes and are not included in the totals.

D. Name and Address of Borrower	E. Name and Address of Seller	F. Name and Address of Lender
Pennstar, LLC and Bass Enterprises, LLC PO Box 1629 Foley, Alabama 36536	Hopper Land Development South, LLC	

1/2 Jax
2,440
Purch
1000

G. Property Location	H. Settlement Agent	I. Settlement Date
S8-T75-RJ6 Parcels 1,2, and 3 upx. 247 acres +/-	BAY TITLE INSURANCE COMPANY	October 28, 2005
	Place of Settlement	
	117 COVE AVENUE GULF SHORES, AL 36542	

J. SUMMARY OF BORROWER'S TRANSACTION:		K. SUMMARY OF SELLER'S TRANSACTION:	
100. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
101. Contract sales price	4,880,000.00	401. Contract sales price	
102. Personal Property		402. Personal Property	
103. Settlement charges to borrower (line 1400)	5,099.00	403.	
104.		404.	
105.		405.	
Adjustment for items paid by seller in advance		Adjustment for items paid by seller in advance	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	4,885,099.00	420. GROSS AMOUNT DUE TO SELLER	
200. AMOUNT PAID BY OR IN BEHALF OF BORROWER		500. REDUCTION IN AMOUNT DUE TO SELLER	
201. Deposit or earnest money	17,185.00	501. Excess deposit (see instruction)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustment for items unpaid by seller		Adjustment for items unpaid by seller	
210. City/town taxes to		510. City/town taxes to	
211. County taxes to 10-01-2005 to 10-28-2005	28.35	511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER	37,223.35	520. TOTAL REDUCTION AMOUNT DUE SELLER	
300. CASH AT SETTLEMENT FOR OR TO BORROWER		600. CASH AT SETTLEMENT TO OR FROM SELLER	
301. Gross amount due from borrower (line 120)	4,885,099.00	601. Gross amount due to seller (line 420)	
302. Less amount paid by/for borrower (line 220)	37,223.35	602. Less reduction amount due seller (line 520)	
303. CASH DUE FROM BORROWER	4,847,875.65	603. CASH DUE TO SELLER	

REV. HUD-1 (3/86)

SETTLEMENT CHARGES:				SETTLEMENT STATEMENT		PAGE
700.	TOTAL SALES/BROKER'S COMMISSION based on price \$	@	%		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
	Division of commission (line 700) as follows:					
701.		to				
702.		to				
703.	Commission paid at settlement	to				
704.		to				
800.	ITEMS PAYABLE IN CONNECTION WITH LOAN					
801.	Loan Origination Fee	% of	to			
802.	Loan Discount	% of	to			
803.	Appraisal Fee		to			
804.	Credit Report		to			
805.	Lender's Inspection Fee		to			
806.	Underwriting Fee		to			
807.	Doc Preparation Fee		to			
808.	Tax Service Fee		to			
809.	Flood Certification Fee		to			
810.			to			
811.			to			
812.			to			
813.			to			
900.	ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE					
901.	Interest from	to	@ \$ /day			
902.	Mortgage Insurance premium for	to				
903.	Hazard Insurance premium for	to				
904.		to				
905.		to				
1000.	RESERVES DEPOSITED WITH LENDER FOR					
1001.	Hazard Insurance	mo. @ \$	/mo.			
1002.	Mortgage Insurance	mo. @ \$	/mo.			
1003.	City property taxes	mo. @ \$	/mo.			
1004.	County property taxes	mo. @ \$	/mo.			
1005.	Annual assessments	mo. @ \$	/mo.			
1006.		mo. @ \$	/mo.			
1007.		mo. @ \$	/mo.			
1008.	Aggregate Escrow Adjustment					
1100.	TITLE CHARGES					
1101.	Settlement or closing fee	to	Buy Title Insurance Company		200.00	
1102.	Abstract or title search	to				
1103.	Title examination	to				
1104.	Title insurance binder	to				
1105.	Document preparation	to				
1106.	Notary fees	to				
1107.	Attorney's fees	to				
	(includes above items No. 1102, 1103 and 1104)					
1108.	Title insurance	to				
	(includes above items No. 1102, 1103 and 1104)					
1109.	Lender's coverage \$					
1110.	Owner's coverage \$	4,880,000.00				
1111.	Document Printing Fee					
1112.	Courier Fee					
1113.	Reissue Credit					
1200.	GOVERNMENT RECORDING AND TRANSFER CHARGES					
1201.	Recording fees	Deed \$ 19.00 ; Mortgage \$; Release \$			19.00	
1202.	City/County tax/stamps:	Deed \$; Mortgage \$				
1203.	State tax/stamps:	Deed \$ 4,880.00 ; Mortgage \$			4,880.00	
1204.						
1205.		to				
1300.	ADDITIONAL SETTLEMENT CHARGES					
1301.	Survey	to				
1302.	Pest inspection	to				
1303.	Home Warranty	to				
1304.		to				
1305.		to				
1306.		to				
1307.		to				
1308.		to				
400.	TOTAL SETTLEMENT CHARGES (enter on lines 103 and 502, Sections j and k)				5,099.00	

STATEMENT OF WORKING CAPITAL AND LIABILITIES OF THE COMPANY AS OF THE END OF THE FISCAL YEAR 1977-78

The HUSBAND and WIFE have executed this instrument as a true and accurate record of the to

Hopper Land Development South, LLC

The HUD-1 Settlement Statement I have reviewed is a true and accurate account of this transaction. I have earned the funds to

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction, U.S. Code Section 1001 and Section 1010.

_____ October 28, 2005

REV. HUD. 1 (3/86)

A. Settlement Statement

U.S. Department of Housing
and Urban Development

OMB No. 2502-0265

B. Type of Loan				6. File Number		7. Loan Number		8. Mortgage Insurance Case Number	
<input type="checkbox"/> FHA <input type="checkbox"/> FmHA <input checked="" type="checkbox"/> Conv. Unins. <input type="checkbox"/> VA <input type="checkbox"/> Conv. Ins <input type="checkbox"/> None (Cash)				BTG-0510-11416A					
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Item marked "(p.o.c)" were paid outside the closing; they are shown here for information purposes and are not included in the totals.									
D. Name and Address of Borrower				E. Name and Address of Seller			F. Name and Address of Lender		
Pennstar, LLC and Bass Enterprises, LLC PO Box 1629 Foley, Alabama 36536				Hopper Land Development South, LLC					
G. Property Location					H. Settlement Agent				
S8-T7S-R36 Parcels 1,2, and 3 apx. 247 acres +/-					BAY TITLE INSURANCE COMPANY				
					Place of Settlement			I. Settlement Date	
					117 COVE AVENUE GULF SHORES, AL 36542			October 28, 2005	
J. SUMMARY OF BORROWER'S TRANSACTION:					K. SUMMARY OF SELLER'S TRANSACTION:				
100. GROSS AMOUNT DUE FROM BORROWER					400. GROSS AMOUNT DUE TO SELLER				
101. Contract sales price 4,880,000.00					401. Contract sales price				
102. Personal Property					402. Personal Property				
103. Settlement charges to borrower (line 1400) 5,099.00					403.				
104.					404.				
105.					405.				
Adjustment for items paid by seller in advance					Adjustment for items paid by seller in advance				
106. City/town taxes to					406. City/town taxes to				
107. County taxes to					407. County taxes to				
108. Assessments to					408. Assessments to				
109.					409.				
110.					410.				
111.					411.				
112.					412.				
120. GROSS AMOUNT DUE FROM BORROWER 4,885,099.00					420. GROSS AMOUNT DUE TO SELLER				
200. AMOUNT PAID BY OR IN BEHALF OF BORROWER					500. REDUCTION IN AMOUNT DUE TO SELLER				
201. Deposit or earnest money 37,195.00					501. Excess deposit (see instruction)				
202. Principal amount of new loan(s)					502. Settlement charges to seller (line 1400)				
203. Existing loan(s) taken subject to					503. Existing loan(s) taken subject to				
204.					504. Payoff of first mortgage loan				
205.					505. Payoff of second mortgage loan				
206.					506.				
207.					507.				
208.					508.				
209.					509.				
Adjustment for items unpaid by seller					Adjustment for items unpaid by seller				
210. City/town taxes to					510. City/town taxes to				
211. County taxes 10-01-2005 to 10-28-2005 28.35					511. County taxes to				
212. Assessments to					512. Assessments to				
213.					513.				
214.					514.				
215.					515.				
216.					516.				
217.					517.				
218.					518.				
219.					519.				
220. TOTAL PAID BY/FOR BORROWER 37,223.35					520. TOTAL REDUCTION AMOUNT DUE SELLER				
300. CASH AT SETTLEMENT FOR OR TO BORROWER					600. CASH AT SETTLEMENT TO OR FROM SELLER				
301. Gross amount due from borrower (line 120) 4,885,099.00					601. Gross amount due to seller (line 420)				
302. Less amount paid by/for borrower (line 220) 37,223.35					602. Less reduction amount due seller (line 520)				
303. CASH DUE FROM BORROWER 4,847,875.65					603. CASH SELLER				

STATE OF ALABAMA
COUNTY OF BALDWIN

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Hopper Land Development South, LLC, a limited liability company, the Grantor, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS, in cash, and for other good and valuable consideration, hereby acknowledged to have been paid to Grantor by Pennstar, LLC and Bass Enterprises, LLC, the Grantees, does hereby, subject to all matters hereinafter mentioned, GRANT, BARGAIN, SELL and CONVEY unto Pennstar, LLC an undivided one-half (1/2) interest and unto Bass Enterprises, LLC an undivided one-half (1/2) interest, as tenants in common, and to their respective successors and assigns, in fee simple, in and to all that real property situate in the County of Baldwin, State of Alabama, described as follows, to-wit:

See Exhibit "A" attached hereto and made a part hereof.

EXCEPTING THEREFROM such oil, gas and other minerals in, on and under said real property, together with all rights in connection therewith, as have previously been reserved by or conveyed by others.

TOGETHER WITH ALL AND SINGULAR, the rights, members, privileges and appurtenances thereunto belonging, or in anywise appertaining; TO HAVE AND TO HOLD the above described property unto the said Grantees, as tenants in common, in accordance with the respective undivided interests hereinabove stated, and to their respective successors and assigns, in fee simple, FOREVER.

THE CONVEYANCE IS SUBJECT TO THE FOLLOWING:

1. Restrictive covenants, reservations, easements, rights-of-way and building set back lines, if any, applicable to said property of record in the Office of the Judge of Probate, Baldwin County, Alabama.
2. Any claim or dispute which might arise by virtue of the fences not being on the true and correct property lines as shown on survey by Survey Concepts, Inc., dated October 19, 2005.

All recording references are to the records in the Office of the Judge of Probate, Baldwin County, Alabama.

AND except as to taxes hereafter falling due, and except as to the above restrictions, reservations, rights of way and easements, all of which are assumed by the said Grantees, Grantor does, for itself and its successors and assigns, hereby covenant with Grantees that it is seized of an indefeasible estate in fee simple in said property, that said property is free and clear of all encumbrances, and that it does hereby WARRANT AND WILL FOREVER DEFEND the title to said property unto Grantees, their respective successors and assigns, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has caused this conveyance to be executed by its

Marguerite who is thereunto duly authorized on this the 28th day of October, 2005.

Hopper Land Development South, LLC

By: Marguerite (SEAL)

Its: Marguerite

State of Alabama, Baldwin County
I certify this instrument was filed
and fees collected on:
28th November - 7 3p 50H
Instrument Number 314588 Pages 3
Recording 9:00 Mortgage
Feed 4858.00 Min Jale
Index 5.00
Archive 5.00
Adrian T. Johns, Judge of Probate

13708 V
86545 V
6853 V
31756 V
Am 1st
assess



STATE OF Georgia
COUNTY OF Cobb

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that Wayne Hopper, whose name as Manager of Hopper Land Development South, LLC, a limited liability company, is signed to the foregoing conveyance, and who is known to me, acknowledged before me that, being informed of the contents of the conveyance, he as such Wayne Hopper executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal of office this 27th day of Oct, 2005.

Sherese A. Cochran
Notary Public
My commission expires: Nov - 28, 2008



Grantee's Address:

PO Box 1629
Foley, AL 36536

This Instrument Prepared By:
David P. Slepian, P.C.
1110 Hillcrest Rd. Suite 1A
Mobile, Alabama 36695

2,440,000
consideration

STATE OF ALABAMA
COUNTY OF BALDWIN

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Ida Sawyer Nolte, also known as Ida Nancy Nolte and George J. Nolte, Husband and Wife, John H. Nolte, a married man and George Mackey Nolte, a married man, the Grantors, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS, in cash, and for other good and valuable consideration, hereby acknowledged to have been paid to Grantors by Hopper Land Development South, LLC, the Grantee, does hereby, subject to all matters hereinafter mentioned, GRANT, BARGAIN, SELL and CONVEY unto the said Grantee, its successors and assigns, in fee simple, all that real property situate in the County of Baldwin, State of Alabama, described as follows, to-wit:

TAX ID 66-83-08-0-008-001.00, TAX ID 66-83-31-0-000-019.000, TAX ID 66-83-31-0-000-020.000, AND A PORTION OF TAX ID 66-83-08-0-000-006.000 SAID PROPERTY LIES IN GRANT SECTION 31, TOWNSHIP 2 SOUTH, RANGE 3 EAST, BALDWIN COUNTY, ALABAMA AND GRANT SECTION 8, TOWNSHIP 2 SOUTH, RANGE 3 EAST, BALDWIN COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY OF BAY ROAD EAST AND THE COMMON GRANT SECTION LINE BETWEEN GRANT SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 EAST, BALDWIN COUNTY, ALABAMA AND GRANT SECTION 3, TOWNSHIP 2 SOUTH, RANGE 3 EAST, BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SAID GRANT SECTION LINE S 31°30'00"E, 82.18 FEET TO AN IRON PIN ON THE SOUTH RIGHT-OF-WAY OF BAY ROAD EAST (60' R/W) AND BEING THE POINT OF BEGINNING; THENCE ALONG SAID GRANT SECTION LINE S 31°30'00"E, 3289.02 FEET TO AN IRON PIN; THENCE S 58°30'00"W, 2103.50 FEET TO AN IRON PIN; THENCE N 31°53'26"W, 398.94 FEET TO AN IRON PIN; THENCE S 58°04'34"W, 619.53 FEET TO AN IRON PIN ON THE EAST RIGHT-OF-WAY OF BALDWIN COUNTY ROAD #12 (80' R/W); THENCE ALONG SAID RIGHT-OF-WAY OF BALDWIN COUNTY ROAD #12, N 31°48' 25" W, 2818.25 FEET TO AN IRON PIN; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY OF BALDWIN COUNTY ROAD #12, A CURVE TO THE LEFT AN ARC DISTANCE OF 416.59 FEET, SAID CURVE HAVING A CHORD OF N 39°57'35" W, 415.80 FEET AND A RADIUS OF 1941.26 FEET TO AN IRON PIN; THENCE N 30°22'33"W, 662.28 FEET TO AN IRON PIN; THENCE N 57°25'39" E 717.62 FEET TO AN IRON PIN; THENCE N 31°30' 00"W 245.11 FEET TO AN IRON PIN ON THE SOUTH RIGHT-OF-WAY OF BAY ROAD EAST (60' R/W); THENCE ALONG SAID RIGHT OF WAY OF BAY ROAD EAST, N 90°00' 00" E, 2429.69 FEET TO AN IRON PIN AND THE POINT OF BEGINNING. SAID TRACT CONTAINS 247.010 + OR - ACRES MORE OR LESS.

EXCEPTING THEREFROM such oil, gas and other minerals in, on and under said real property, together with all rights in connection therewith, as have previously been reserved by or conveyed by others.

TOGETHER WITH ALL AND SINGULAR, the rights, members, privileges and appurtenances thereto belonging, or in anywise appertaining; TO HAVE AND TO HOLD the above described property unto the said Grantee, its successors and assigns, FOREVER.

THE CONVEYANCE IS SUBJECT TO THE FOLLOWING:

1. Restrictive covenants, reservations, easements, rights-of-way and building set back lines, if any, applicable to said property of record in the Office of the Judge of Probate, Baldwin County, Alabama.
2. Any claim or dispute which might arise by virtue of the fences not being on the true and correct property lines as shown on survey by Survey Concepts, Inc., dated October 19, 2005.

All recording references are to the records in the Office of the Judge of Probate, Baldwin County, Alabama.

AND except as to taxes hereafter falling due, and except as to the above restrictions, reservations, rights of way and easements, all of which are assumed by the said Grantee, Grantors do for themselves and their heirs and assigns, hereby covenant with Grantee that they are seized of an indefeasible estate in fee simple in said property, that said property is free and clear of all encumbrances, and that they do hereby WARRANT AND WILL FOREVER DEFEND the title to said property unto Grantee, its successors and assigns, against the lawful claims of all persons whomsoever.

John H. Nolte and George Mackey Nolte do hereby represent and covenant that the herein property does not constitute homestead property for themselves or for their spouses within the meaning of Title 6-10-3, Code of Alabama, 1975.

IN WITNESS WHEREOF, the Grantors have executed these presents on this the 28th day of October, 2005.

EXHIBIT

G

STATE OF Alabama

COUNTY OF Baldwin

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that, John H. Nolte, a married man, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand and seal of office this 28th day of October, 2005.

Judy K. Smith
Notary Public
My Commission Expires:

JUDY K. SMITH
Notary Public, Baldwin County
Alabama State At Large
My Commission Expires
August 25, 2008

STATE OF Alabama

COUNTY OF Baldwin

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that, George Mackey Nolte, a married man, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand and seal of office this 28th day of October, 2005.

Judy K. Smith
Notary Public
My Commission Expires:

JUDY K. SMITH
Notary Public, Baldwin County
Alabama State At Large
My Commission Expires
August 25, 2008

Grantee's Address:

1266 West Paces Ferry Rd, Ste 276
Atlanta, GA 30327

This Instrument Prepared By:
David P. Stepien, P.C.
1110 Wilkes Rd, Suite 1A
Mobile, Alabama 36685

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:

2005 November - 7 9: 5AM

Instrument Number 934549 Pages 3
Recording 3.00 Mortgage
Good 2448.00 Min Tax
Index 3.00 DA 5.00
Archive 0.00
Adrian T. Johns, Judge of Probate

Ida Sawyer Nolte (SEAL)
Ida Sawyer Nolte, also known as Ida Nancy Nolte

George J. Nolte (SEAL)
George J. Nolte

John H. Nolte (SEAL)
John H. Nolte

George Mackey Nolte (SEAL)
George Mackey Nolte

STATE OF Alabama
COUNTY OF Baldwin

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that, Ida Sawyer Nolte, also known as Ida Nancy Nolte, a married woman, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 28th day of October, 2005.

Judy K. Smith
Notary Public
My Commission Expires:

JUDY K. SMITH
Notary Public, Baldwin County
Alabama State At Large
My Commission Expires
August 26, 2008

STATE OF Alabama
COUNTY OF Baldwin

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that, George J. Nolte, a married man, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 28th day of October, 2005.

Judy K. Smith
Notary Public
My Commission Expires:

JUDY K. SMITH
Notary Public, Baldwin County
Alabama State At Large
My Commission Expires
August 26, 2008



PRESS FIRMLY you are writing through 4 copies.

PURCHASE AGREEMENT



LISTING COMPANY: Exit

SELLING COMPANY: Exit

EFFECTIVE DATE: (To be completed by the last party to sign or initial acceptance of the final offer.)
Date 6-28-05 Initials AN-JM

PLEASE READ CAREFULLY: This is a legally binding agreement. If you have any questions, please seek advice of legal counsel. You may retain legal counsel to review and/or prepare this Purchase Agreement for you. This is a preprinted Purchase Agreement and prior to its signing by all parties is subject to negotiation between the parties to the Agreement. Wherever Purchaser or Seller is mentioned, below, if there is more than one Purchaser or more than one Seller party to this agreement, it is understood that the words Purchaser or Seller shall represent all Purchasers or all Sellers.

REAL ESTATE CONSUMER'S AGENCY DISCLOSURE:

THE LISTING COMPANY Exit IS:

- (Two blocks may be checked)
- ☒ An agent of the seller
 - ☐ An agent of the buyer
 - ☐ An agent of both the seller and buyer and is acting as a limited consensual dual agent
 - ☐ Assisting the buyer seller as a transaction broker
 - ☐ Seller(s) Initials _____

THE SELLING COMPANY Exit IS:

- (Two blocks may be checked)
- ☐ An agent of the seller
 - ☒ An agent of the buyer
 - ☐ An agent of both the seller and buyer and is acting as a limited consensual dual agent
 - ☐ Assisting the buyer as a transaction broker
 - ☒ Purchaser(s) Initials AN-JM

PURCHASER'S OFFER:

1. THE UNDERSIGNED, HEREINAFTER CALLED THE PURCHASER, HEREBY OFFERS TO PURCHASE THE PROPERTY Located in the City of Magnolia Springs, County of Baldwin, Alabama, commonly known as:

Sec 8 TWP 28 Rng 3 E Parcel 1, 2 & 3
an legally described as: 247 ACRES
for the sum of (exactly) two million four hundred seventy thousand dollars and 00/100 Dollars (\$) 2,470,000

2. THE TERMS OF THE PURCHASE SHALL BE INDICATED BY "X" BELOW (UNMARKED ITEMS DO NOT APPLY):

- ☐ CASH: The full purchase price upon execution and delivery of Warranty Deed/Bill of Sale.
- ☒ NEW CONVENTIONAL MORTGAGE: The full purchase price upon execution and delivery of Warranty Deed/Bill of Sale, contingent upon Purchaser's ability to obtain a 30 year fixed (type) mortgage in the amount of \$ _____ at an annual interest rate not to exceed _____ %, computed monthly, for which Purchaser agrees to apply for immediately and accept promptly if tendered. All prepaid and loan closing costs which lender requires borrower to pay shall be paid by Purchaser. Discount points not to exceed _____ % of mortgage amount to be paid by ☐ Purchaser ☐ Seller. Origination fee not to exceed _____ % of mortgage amount to be paid by ☐ Purchaser ☐ Seller. All other lender fees to be paid by ☐ Purchaser ☐ Seller, unless otherwise specified herein. ☐ Purchaser ☐ Seller to make repairs or replacements as required for mortgage loan purposes, not to exceed \$ _____, not including possible repairs as may be required by paragraphs 5 and 9 below.

- ☐ PRE-QUALIFICATION: Purchaser has been pre-approved for loan in the amount of \$ _____ by _____ lender. Written verification from lender must be attached to this Purchase Agreement.
- ☐ VENDOR'S LIEN DEED: \$ _____ upon execution and delivery of Warranty Deed/Bill of Sale reserving a Vendor's Lien wherein the balance of \$ _____ shall be amortized for a period of _____ years and shall be payable in _____ monthly/or _____ annual installments of \$ _____ including ☐ plus interest at _____ % per annum. Interest to start on date of closing and the first payment to become due _____ after closing. There ☐ shall ☐ shall not be a prepayment penalty of _____ % of the unpaid balance. Vendor's Lien ☐ shall ☐ shall not be assumable without written consent of lien holder, and the Vendor's Lien or Note ☐ shall ☐ shall not contain a late charge provision of _____ % of payment due when paid more than _____ days after due date thereof. Purchaser agrees to provide at his/her expense a credit report, verification of income or other financial data satisfactory to Seller. The Vendor's Lien shall require Purchaser to pay all ad valorem taxes when due and to furnish hazard insurance coverage on buildings and improvements (and flood insurance if required by Seller) with standard mortgage clause. Purchaser to supply first year's insurance policy at closing and continue insurance coverage on the buildings and improvements for the term of the Vendor's Lien.

☐ FHA/VA MORTGAGE: SEE ATTACHED ADDENDUM
OTHER MORTGAGE PROVISIONS: _____

APPRAISAL This offer ☐ is ☒ is not subject to property appraising for at least the purchase price. The Purchaser shall, however, have the privilege and option of proceeding with the consummation of the contract without regard to the amount of the appraised valuation.

3. ALL IMPROVEMENTS, PERMANENT FIXTURES AND APPURTENANCES ARE INCLUDED IN THE PURCHASE PRICE, EXCEPT: _____

4. NO ITEMS OF PERSONAL PROPERTY shall be transferred to purchaser unless specifically itemized herein. Fixtures and improvements located on Fairhope Single Tax Corporation property shall be part of the property and not considered personal.

ANY PERSONAL PROPERTY that does remain is of NO VALUE for appraisal and mortgage loan purposes unless otherwise noted.

5. PURCHASER HAS EXAMINED THIS PROPERTY and agrees to accept same in its present condition, except as may be specified herein. Heating, cooling and air-conditioning equipment, including window units, plumbing, and electrical systems and all included appliances shall be warranted by Seller to be in working order at time of conveyance. Providing utility availability, if necessary, for this inspection is the responsibility of the ☐ Purchaser ☐ Seller. Purchaser may be required to sign a final Walk-Through/Systems Check Inspection Form, indicating that the inspection was completed and that the property was acceptable, unless otherwise noted on the form. Purchaser understands that if a Sales Associate accompanies Purchaser on this final inspection it will be as a courtesy only and not as a person qualified to detect any defect. Cost of septic tank inspection and cost of well water testing, if any required, shall be paid for by ☐ Purchaser ☐ Seller.

INITIALS BELOW INDICATE RECEIPT OF PAGE 1 OF 3 OF THIS AGREEMENT
SELLER(S) INITIALS AN-JM PURCHASER(S) INITIALS AN-JM

This Purchase Agreement is for the exclusive use of members of the Baldwin County Association of REALTORS®



6. PURCHASER IS AWARE that professional inspection of home structure and systems, and any other items of importance to Purchaser, are available by a representative of Purchaser's choosing. Sale ☐ is ☒ not subject to said inspection. If sale is subject to said inspection, Purchaser agrees to pay for same, and if said inspection is found to be unsatisfactory to Purchaser, Seller is to be notified in writing within _____ business days of acceptance of this agreement. Otherwise, this contingency will be considered removed at the expiration of such period.
7. A HOME WARRANTY subject to limitations, exclusions, and deductibles, ☐ shall ☒ shall not be furnished at expense of ☒ Purchaser ☐ Seller.
8. LEAD-BASED PAINT DISCLOSURE AND CONTINGENCY: Federal law requires that for all residential dwellings constructed prior to 1978, Purchaser is put on notice of his/her rights to test for lead-based paint. Check here ☐ if a lead-based paint warning is attached and made part of this Purchase Agreement.
9. SELLER SHALL FURNISH WRITTEN EVIDENCE, from a bonded and licensed termite control company, that a visual inspection by them of accessible areas of the dwelling, carport and garage indicated that the dwelling, carport and garage are free from active infestation by wood-destroying insects or fungus and damage caused by currently active infestation. The current termite contract, if any, is to be transferred to Purchaser at Purchaser's expense. If a Structural Damage Report is required by Lender, the cost shall be paid by ☐ Purchaser ☐ Seller.
10. ALL AD VALOREM TAXES, HOMEOWNERS ASSOCIATION DUES AND ANY RENTS being collected from existing tenants are to be prorated at time of closing. Purchaser to honor any confirmed rentals booked at time of closing at published rental rates. All security deposits, keys and lease or rental management agreements to be transferred to Purchaser at closing. NOTE: Taxes are prorated based upon current information furnished by the Revenue Commissioner's Office. Brokers and Real Estate Associates cannot and do not assume any responsibility for any change, modification or adjustment to the current tax assessment by the Revenue Commissioner's Office. If property is assessed under the CURRENT USE CLASSIFICATION, then any rollback or other additional assessment levied against property as a result of this sale shall be paid by ☐ Purchaser ☒ Seller.
11. PROPERTY ASSESSMENTS which become a lien on the property prior to closing date shall be paid by the Seller, without proration. Any public improvements, now installed but not yet a lien, shall be paid by ☐ Purchaser ☒ Seller. Any Homeowners Association assessments known to the parties at the time of the execution of Purchase Agreement that become due prior to closing shall be paid by ☐ Purchaser ☒ Seller. Homeowners Association assessments that have been approved by the Association which become due after closing shall be paid by ☒ Purchaser ☐ Seller.
12. A CURRENT SURVEY ☒ shall ☐ shall not be furnished prior to closing and paid for by ☐ Purchaser ☒ Seller.
13. A. PURCHASER to pay closing agent settlement fee, recording fee and mortgagee title insurance policy required by lender.
B. SELLER to pay for preparation of Warranty Deed/Bill of Sale and Owner's Title Insurance Policy in the amount of the purchase price.
14. SALE SHALL BE CLOSED AND DEED/BILL OF SALE delivered on 10/28, 2005, or sooner, if mutually agreed upon in writing by Purchaser and Seller. Time shall be of the essence with all terms and conditions and particulars of this agreement. Title is to be taken in the names(s) of Bill Springer and Michael Weiss and/or assigns
☒ with ☐ without right of survivorship, in a form satisfactory to Purchaser. The property is sold and is to be conveyed subject to mineral and mining rights not owned by Seller and subject to present zoning and flood plain classification, utility easements, covenants, restrictions and building setback lines. Seller owned mineral rights ☐ do ☐ do not convey.
15. A PERIOD OF THIRTY (30) DAYS from the date of closing, as stated in paragraph 14, shall be allowed for closing if the closing is delayed by reason of title defects that can be readily corrected.
16. A PERIOD OF TEN (10) DAYS from date of closing, as stated in paragraph 14, shall be allowed for closing if the terms of purchase require a new mortgage and lender issues a written unconditional commitment letter no later than the date of closing in paragraph 14 above but is delayed in consummating the mortgage.
17. RISK OR LOSS BY FIRE or other casualty, condemnations shall be on the Seller until title is conveyed.
18. POSSESSION TO BE GIVEN the Purchaser at closing or ☐ _____ days after closing. In the event Seller retains possession of the property beyond this date, Seller shall pay \$ _____ per day as rental, but will vacate by _____, 20____, ☐ a.m. ☐ p.m., without further notice. Seller does hereby guarantee that at the date of surrender of occupancy by the Seller, the property shall be in the same condition as at the day of closing. Seller shall provide to Purchaser keys and/or means to operate all property locks, mailboxes and security systems at date of possession.
19. FOR VALUABLE CONSIDERATION, Purchaser gives the Listing Broker above named until 6/28, 2005, written acceptance of this offer and agrees that this offer, when signed, will constitute a binding agreement between the Purchaser and Seller. Purchaser herewith deposits \$ 40,000 in the form of ☐ cash ☐ check to the Listing Broker (herein referred to as Holder) upon acceptance of this offer and to be applied to the purchase price of the property. If this offer is not accepted, the earnest money deposit is to be returned to the Purchaser. If the terms of purchase are contingent upon ability to obtain financing as specified which cannot be met, this deposit to be refunded upon written agreement signed by Purchaser and Seller. The parties to this Agreement understand and acknowledge that disbursement of earnest money shall be as follows: (A) at closing; (B) upon written agreement signed by Purchaser and Seller; or (C) upon court order. In the event a dispute arises between Purchaser and Seller as to the final disposition of the earnest money, Holder shall be authorized to interplead the earnest money into a Court of competent jurisdiction. Holder shall be entitled to be compensated by the party who does not prevail in the Interpleader Action for its costs and expenses, including reasonable attorney's fees incurred in filing said Interpleader. All parties to this Agreement agree that Holder may deposit the earnest money in an interest-bearing escrow/trust account and that Holder will retain the interest earned on said deposit. In the event the earnest money check is returned for insufficient funds or otherwise not honored by the bank drawn upon and Purchaser has not delivered good funds to Holder within three (3) days of bank's notice to Holder, then and in that event, the Seller, at his sole discretion, reserves the right to terminate this Agreement by giving written notice to the Purchaser.

20. Other provisions Contingent upon wellhead debris being acceptable and
60 day due diligence and city water @ on property

21. DEFAULT/LEGAL REMEDIES:

A. Default by PURCHASER: In the event that PURCHASER fails to consummate this Agreement, SELLER shall have the right to pursue any remedy available at law or in equity as a result of such breach, including specifically, without limitation, the right (a) to RETAIN the EARNEST MONEY, (b) the right to ENFORCE SPECIFIC PERFORMANCE of this Agreement, and (c) the right to TERMINATE this AGREEMENT, and thereafter RECOVER DAMAGES against PURCHASER for breach by PURCHASER thereof.

B. Default by SELLER: In the event that SELLER fails to consummate this Agreement, PURCHASER shall have the right to pursue any remedy available at law or in equity as a result of such breach, including specifically, without limitation, the right (a) to receive the RETURN of the EARNEST MONEY, (b) the right to ENFORCE SPECIFIC PERFORMANCE of the obligation of Seller to execute the documents required to convey the Real Property to PURCHASER, and (c) the right to TERMINATE this AGREEMENT and thereafter RECOVER DAMAGES against SELLER for breach by SELLER thereof.

C. ARBITRATION: If an Arbitration clause is attached to this Purchase Agreement as an addendum and is signed by all Purchasers at Sellers to this Purchase Agreement, the same shall supersede the remedies provided for elsewhere.

22. THE PURCHASE PRICE AND TERMS OF THIS SALE MAY BE DISCLOSED, after closing, by the real estate companies for use in the ordinary conduct of their business. Real Estate Brokers/Sales Associates may benefit financially as a result of recommending real estate-related services to clients and customers. All parties to this Agreement are advised to also seek other services or compare cost of services in these related fields and do business with whomever or wherever is most desirable to them.

23. PURCHASER AND SELLER hereby acknowledge and confirm that this Purchase Agreement states the entire agreement between the parties hereto and no modification of this Agreement shall be binding unless attached hereto and signed by both Purchaser and Seller.

24. THE FACSIMILE TRANSMISSION of a signed copy hereof or any counteroffer to the other party or his/her Sales Associate, followed by facsimile acknowledgment of receipt, shall constitute delivery of said signed document. The parties agree to affirm such delivery by mailing or personally delivering a signed original copy to the other party or his/her Sales Associate.

25. ALL PARTIES TO THIS PURCHASE AGREEMENT understand and acknowledge that Listing Brokers/Selling Brokers and/or Sales Associates are not parties to this Purchase Agreement and as such do not assume any liability for performance or nonperformance of any parties to this agreement.

26. PURCHASER ACKNOWLEDGES RECEIPT of a copy of this Agreement and attached addenda, if any, which are made a part of this Purchase Agreement. Date: 12/27, 2006, 10:30 ☐ a.m. ☒ p.m.,

Purchaser X Michael S. Weiss (print) MICHAEL S. WEISS SS# _____
Purchaser X Bill Springer (print) Bill Springer SS# _____
Purchaser's Address _____ Phone: (res.) _____ (wk) _____

Witness X _____ Selling Associate: X John Doe (res) 251-774-1623 (wk) 251-377-5236

27. SELLER'S ACCEPTANCE OF OFFER/RECEIPT OF ACCEPTANCE: Date: _____, 20____, ☐ a.m. ☐ p.m.,
The above offer is hereby accepted _____

In the event a counteroffer is made, it shall expire on _____, 20____, ☐ a.m. ☐ p.m., if Purchaser has not given prior written acceptance. Seller acknowledges receipt of a copy of this Agreement and attached addenda, if any, which are made part of this Purchase Agreement.

Seller X George J. Nolte (print) George J. Nolte SS# _____
Seller X Ida Sawyer Nolte (print) Ida Sawyer Nolte SS# 419-52-198
(print name as title is held)
Seller's Address _____ Phone: (res.) _____ (wk) _____

Witness X _____ Listing Associate: X John Doe (res.) 778-2050 (wk) 626-2244

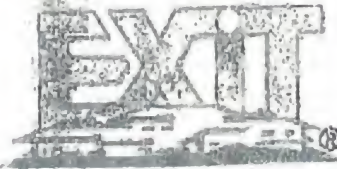
28. PURCHASER'S ACCEPTANCE OF COUNTEROFFER/RECEIPT OF ACCEPTANCE:

Purchaser acknowledges receipt of Seller's acceptance of Purchaser's offer. In the event this acceptance was subject to certain changes from the Purchaser's offer, the Purchaser agrees to accept said changes. All other provisions of the original offer remain unchanged.

Date: _____, 20____, ☐ a.m. ☐ p.m., Purchaser X _____
Witness X _____ Purchaser X _____

INITIALS BELOW INDICATE RECEIPT OF PAGE 3 OF 3 OF THIS AGREEMENT.
SELLER(S) INITIALS Ida Sawyer Nolte PURCHASER(S) INITIALS Michael S. Weiss

This Purchase Agreement is for the exclusive use of members of the Baldwin County Association of REALTORS®



EXIT REALTY GULF SHORES
3725 Gulf Shores Pkwy - Gulf Shores, AL 36542
Phone 251-974-1288 *** Fax 251-974-1284

ADDENDUM TO CONTRACT

DATE 6-28-05

Addendum # 1 To Contract - Sec 8 Twp 7S Rng 3E
Parcels 1, 2 & 3

In the contract dated 6-1-28-05 between

Bill Sprincker & Michael Weiss, Purchaser and
George & Ida Nolte, Seller

Conveying the property commonly known as:

247 acres on Cty Rde 12, Macaria Springs.

1. 3 acres to be kept out by sellers,
making purchase price \$2,440,000.00
2. Purchase price to change from 2,470,000.00
down to 2,440,000.00
3. _____

Seller George & Ida Nolte Date 6-28-05

Buyer Bill & Michael Weiss Date 6-28-05

08/19/2005 12:08

251-964-5934

CANAANREALESTATELLC

PAGE 83



Exit Realty - Orange Beach
4161 Orange Beach Boulevard
Orange Beach, AL 36561

ADDENDUM

In reference to the attached purchase agreement the following will apply:

INCEPTION DATE of CONTRACT - AMENDED TO
DATE OF ACCEPTANCE AND ESCROW DEPOSIT, 07/05/05.

AND DATE OF RECORDING AND THE DUE DILIGENCE AND CLOSING
SHALL BE BASED ON THIS DATE, AS HEREIN AGREED
TO BY THE PARTIES.

[Signature]
Purchaser

[Signature]
Purchaser

Date: 7/8/05

Seller

Seller

Date:

ASSIGNMENT

STATE OF ALABAMA
COUNTY OF BALDWIN

KNOW ALL MEN BY THESE PRESENTS, that Michael S. Weiss and Bill Springer (collectively the "Assignor"), do hereby TRANSFER, SET OVER AND ASSIGN unto Pennstar, L.L.C., its successors or assigns (collectively "Assignee") that certain Conditional Real Estate Purchase Agreement bearing an Effective Date of June 28, 2005, and Addendum dated 9-28-05, by and between Assignor as "Purchaser" and George J. Nolte, Ida Sawyer Nolte (one and the same as Ida Nancy Nolte), and John H. Nolte, collectively as "Seller," the originals of which are attached hereto and incorporated herein by reference (the "Contract"), for and in consideration of the sum of SEVEN HUNDRED FIFTY THOUSAND (\$750,000.00) DOLLARS payable by Assignee as follows:

- (a) \$25,000 to Michael S. Weiss and \$25,000 to Bill Springer, both by wire transfer in c/o Michael S. Weiss, upon execution of this Assignment and delivery of same (with the original Contract attached) in escrow at Bay Title Insurance Company, Inc. ("Escrow Agent"), the receipt of said sum is hereby acknowledged by Assignor (See below for escrow instructions related to this Assignment and the original Contract); and
- (b) \$700,000 paid in escrow at Escrow Agent upon execution and delivery of this Assignment to Escrow Agent to be held in escrow and delivered to Assignor (i) upon closing of the Contract and acquisition of the Contract property by Assignee or (ii) upon the Contract Seller tendering full performance of the Contract Seller's obligations in accordance with the terms of the Contract; otherwise said sum of \$700,000 to be delivered to Assignee on the day following the Contract closing date;

And for the same consideration Assignor does hereby TRANSFER, SET OVER AND ASSIGN unto Assignee all of Assignor's right, title and interest that Assignor has by virtue of the Contract in and to the premises and property described therein, it being the intention of the Assignor to transfer to the Assignee the Contract and all of Assignor's rights thereunder, including without limitation all rights to any earnest money paid by Assignor as Purchaser under the terms of the Contract;

TO HAVE AND TO HOLD all of the same unto Assignee and Assignee's successors and assigns forever.

Assignor hereby warrants that Assignor is a legal and equitable owner of the Contract with full power to sell and assign the same free and clear of all liens or encumbrances whatsoever and that Assignor and Assignor's successors and assigns shall FOREVER WARRANT and DEFEND the title to the interest assigned herein against the lawful claims of all persons whomsoever.

This Assignment (with the original Contract attached), upon execution hereof by Assignor, shall be delivered in escrow to Escrow Agent to be held in escrow pursuant to the following instructions to deliver same to Assignor on the second day following the Contract closing date (a) in the event Contract Seller does not perform under the terms of the Contract and Assignee does not acquire the Contract property at the Contract closing date and (b) upon payment of the sum of \$50,000 by Assignor to Assignee on or before the second day following the Contract closing date; otherwise, this Assignment shall be delivered to Assignee on the third day following the Contract closing date.

The Contract and the Assignee's rights under this Assignment may be freely assigned to Assignee's affiliates but may not be assigned to non-affiliates without the prior written consent of Assignor.

The parties hereto agree to the following Escrow Agreement with the Escrow Agent:
Pennstar00888A



EXHIBIT

I

1. Escrow Agent is authorized to proceed with the closing of the sale of real property pursuant to the terms, covenants and agreements set forth in the Contract as modified by the terms of this Assignment;
2. Assignor and Assignee shall direct and instruct Escrow Agent to disburse the escrow funds and property by written instruction, including this Assignment. Escrow Agent shall conduct said disbursement in accordance with the written instructions provided by Assignor and Assignee, including this Assignment.
3. In the event of any dispute with respect to the disposition of all or part of the escrow funds and property or any disagreement arising between the Assignor and Assignee and they fail to execute a joint direction to the Escrow Agent with respect to the disposition of the escrow funds and property, or in any other matter connected with this Escrow Agreement, Escrow Agent shall then act upon the final judgment of a court having jurisdiction of the controversy of the escrow funds and property, and may, if it is so advised, institute action for declaratory judgment, or interpleader, or take such other legal action as it deems advisable, and shall be reimbursed for all of its expenses, including attorney's fees, out of the escrow funds, and shall incur no obligation or liability to Assignor, Assignee or any other person for any action it takes or fails to take under such circumstances.
4. Except as specifically provided herein, the duties of the Escrow Agent hereunder are only such as are herein specifically provided, being purely ministerial in nature, and it shall not have responsibility in respect of the cash and property deposited with it other than faithfully to follow the instructions herein contained.
5. Escrow Agent shall not be liable for any error or judgment, or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith.
6. Escrow Agent may, but shall not be required to, defend itself in any legal proceeding which may be instituted against it or it may, but shall not be required to institute legal proceedings in respect of the escrow funds and property, or any part thereof. Escrow Agent shall be indemnified and held harmless against the cost and expense of any such defense or action by the Borrower.
7. This Escrow Agreement shall be binding upon and inure to the benefit to the respective heirs, successors, and assigns of Assignor and Assignee and Escrow Agent.
8. This Escrow Agreement contains the sole and entire agreement and understanding of the parties with the respect of the entire subject matter hereof and any and all prior discussions, negotiations, commitments, letters of intent, memoranda, writings and understandings related hereto are hereby superseded.

Pennstar00889A

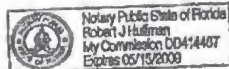
IN WITNESS WHEREOF, Michael S. Weiss and Bill Springer have hereunto set their hands and seals, all of this the 1st day of September, 2005. *October 2006*

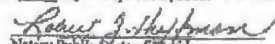

Michael S. Weiss (SEAL)

Bill Springer (SEAL)

STATE OF FLORIDA
COUNTY OF Duval

I, the undersigned Notary Public in and for said State and County, hereby certify that Michael S. Weiss, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 1st day of September, 2005. *October 2005*

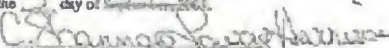



Robert J. Huffman
Notary Public-State of Florida
My commission expires: *5/17/09 2009*

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that and Bill Springer, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 3 day of Oct. 2005


Notary Public-State of Alabama at Large
My commission expires: _____

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 21, 2009
BONDED THIRD NOTARY PUBLIC UNDER \$100K

Pennstar00890A

Ms. Judy Smith
Bay Title

251-948-7543

Re: 244-Acre Magnolia Springs Property

Judy:

You have informed us of a deficiency in Seller's delivery of acreage as called for by the Weiss / Springer contract, as assigned to Pennstar, L.L.C., "Assignee".

You have advised us that Assignee has requested an adjustment to their consideration, as set forth in the Assignment Agreement, of $1.125 * \$ 10,000$, or \$ 11,125, in consideration for the related deficiency, as determined by Assignee's review of the Property Survey and Seller's holdback delineation.

Please allow this letter to serve as our acceptance of a discount to the consideration provided for in our Assignment Agreement with Pennstar, L.L.C. in the amount of \$ 11,125.

Accordingly, please coordinate and affect the reallocation of this portion (\$ 11,125) of Pennstar's funds placed in escrow (\$ 700,000), resulting in a net distribution to Weiss / Springer of \$ 688,875 as set forth by our Assignment Agreement.

Understood and Accepted:

By: 

Bill Springer

By: 

Michael Weiss

Date: October 28, 2005

Date: October 28, 2005

APPENDIX 2

Tilley's Alabama Equity § 10:3 (5th ed.)

Tilley's Alabama Equity June 2018 Update
Ally Windsor Howell, LL.M.

Chapter 10. Rescission of a Contract

§ 10:3. Grounds that will justify rescission

(a) Fraud in the Inducement

When one “is induced to enter into ... a contract by fraud, he has an election of remedies, either (1) to rescind the contract and sue for his money back, in which event he must give up possession of the property and restore all the benefits he received under it, or (2) affirm the contract, and sue for damages for the deceit, when he may retain the property, and its other benefits.”¹ A deed is “absolutely void where the grantor's signature is obtained by fraud going to the nature of the instrument he was requested to sign.” Likewise, a forged deed is void and completely ineffectual to pass title.²

Alabama law does not require a plaintiff seeking rescission of a deed based on an allegation of fraud to prove intent to deceive. The [Ala. Code § 6-5-101](#) states “Misrepresentations of a material fact made willfully to deceive, or recklessly without knowledge, and acted on by the opposite party, or if made by mistake and innocently and acted on by the opposite party, constitute legal fraud.”³

(b) Mutual Mistake of Fact or Law

A contract or conveyance may be reformed or rescinded based upon a mutual mistake of fact or law.⁴ There are conditions and exceptions, however. “To justify rescission, a mistake of law must have related to a question, the answer to which was assumed as part of the fundamental basis of the transaction.”⁵ It was previously the “rule that a contract could not be rescinded for a mutual mistake if it was a mistake of law. By and large, that is no longer true and it is of no critical importance whether a mutual mistake is one of fact or law.”⁶ The statutes allow reformation of contracts that do not “truly express the intention of the parties.”⁷ And this principle should be no less applicable to a case seeking rescission of a contract instead of its reformation.

(c) Unilateral Mistake of Fact or Law

Rescission is available when a unilateral mistake relates to the substance of the consideration, and it occurred despite the exercise of ordinary care, and enforcement of the mistake would be unconscionable, and the other party can be returned to the status quo ante contractus.⁸ The Alabama Supreme Court very aptly described the law as to unilateral mistakes:

It has been declared that if, in the expression of the intention of one of the parties to an alleged contract, there is error, and that error is unknown to and unsuspected by the other party, that which was so expressed by the one party and agreed to by the other is valid and binding as a contract, which the party not in error may enforce. In other words, a party to a contract cannot avoid it on the ground that he made a mistake where there has been no misrepresentation, and there is no ambiguity in the terms of the contract, and the other contractor has no notice of such mistake and acts in perfect good faith. A unilateral error, it has been said does not avoid a contract. But this rule is by no means invariably applied

in the cancellation of contracts. It is said that mistake may be a good defense when hardships amounting to injustice would be inflicted on a party by holding him to his apparent bargain, and where it is unreasonable to hold him to it. However, a unilateral mistake in the making of a contract, of which the other contracting party is entirely ignorant, and to which he in no way contributes, will not affect the contract, or afford ground for its avoidance or rescission, unless it be such a mistake as goes to the substance of the contract itself. Not only must the mistake be material to the transaction, but the person who made the mistake must show, when he applies to an equity court for a rescission of the contract, that his mistake is not due to want of care or diligence, although the conclusion warranted by the best considered authorities is that mere neglect may not be a bar to the setting aside of the contract unless it is such as amounts to the violation of a positive legal duty and such as prejudiced the other party. What has been said applies only to cases in which one of the parties is entirely innocent of the other's mistake.⁹

If one of the parties, through mistake, names a consideration that is out of all proportion to the value of the subject of negotiation and the other party realizing that a mistake must have been committed, takes advantage of it and refuses to let the mistake be corrected when it is discovered, he cannot under these conditions claim an enforceable contract. Where there is a mistake that on its face is so palpable as to place a person of reasonable intelligence upon his guard, there is not a meeting of the minds of the parties, and consequently there can be no contract.

While the statutes allow reformation of contracts that do not “truly express the intention of the parties,” and while this principle should be no less applicable to a case seeking rescission of a contract instead of its reformation, it has been held that the statute does not authorize relief based upon the mistake of one party in absence of fraud or inequitable conduct.¹⁰

However, the doctrine of equitable rescission has no application in the field of public-works contracts. If a bidder on a public-works contract makes a mistake in preparing the submitted bid, the bidder can only either forfeit the bid bond and decline the contract as awarded or accept the contract. This is due to a statutory scheme¹¹ surrounding public-works contracts which supplants the equitable doctrine.¹²

(d) Invalidity of Contract

Although a void contract need not be rescinded, it is otherwise with respect to voidable contracts as where a contract is voidable because it was induced by fraud or was obtained by duress or undue influence or was executed under mistake. Of course, the exercise of a right to avoid a voidable contract operates as a discharge of such contract.¹³ Alabama law follows this general rule and recognizes a distinction between void and voidable contracts as it relates to the equitable remedy of rescission.

As to voidable contracts, they can be rescinded. However, “there is a well-recognized limitation upon the right of rescission even in such cases. If there has been part performance of the contract,-that is, to such an extent that the *status quo* cannot be restored,-then no rescission can be claimed.”¹⁴ Of course, this limitation equally applies to other contracts for which rescission is sought.

As to void contracts, if the contract is void, “there is no occasion for a rescission” because “there is nothing to rescind.”¹⁵ Since there is nothing to rescind, a notice of an intent to rescind is not necessary.¹⁶ “No presumption arises, under a contract void under the statute of frauds, that its nullifying defects will be waived by either party; and neither has a right

to assume that it will be by the other party. If the contract is void under the statute of frauds, there is nothing to rescind; the agreement, so long as it remains unexecuted, vests neither party with any legal rights as against the other.”¹⁷

As to illegal or immoral contracts, the law is, quite justly, harsh. “The law will leave all who share in the guilt of an illegal or immoral transaction where it finds them, and will neither lend its aid to enforce the contract while executory, nor to rescind it and recover back the consideration when executed.”¹⁸ However, this statement of the rule presupposes “voluntary action on the part of both parties, and rests upon the assumption that they are equally at fault. The rule is therefore subject to the qualification that, if the payment has been extorted or induced by duress, oppression, or undue influence, it can be recovered back.”¹⁹

(e) Failure or Want of Consideration

A party's inability to perform a contract after it is made is, as a rule, a ground for rescinding it.²⁰ However, mere “inadequacy of consideration is not sufficient to authorize the cancellation of a contract.” “Nor will mistake in law or partial failure of consideration, in the absence of fraud, authorize the cancellation of a contract.”²¹

In cases that are subject to the Uniform Commercial Code, a different rule appears to control. The supreme court held that the tender of a check which was not honored by the drawee bank justified rescission of a contract.²²

(f) Repudiation or Renunciation and Anticipatory Repudiation

An anticipatory repudiation, or repudiation before the time when performance is due, warrants rescission by the other party and a recovery upon quantum meruit as far as he or she has performed. However, an anticipatory breach of contract must be an unequivocal repudiation; a mere request for a change in terms or for cancellation does not constitute a repudiation.²³ Speaking of the right of rescission for breach of the contract, the supreme court used the following language:²⁴

A contract is made by the joint will of two parties, and can only be rescinded by the joint will of the two parties; but one party may so wrongfully repudiate the contract as to authorize the other to renounce it and refuse to be longer bound thereby. This happens when the acts and conduct of one of the parties evinces an intention to no longer be bound by the contract. Merely because a given act or course of conduct of one party to a contract is inconsistent with the contract is not sufficient; it must be inconsistent with the intention to be longer bound by it. Every breach of a contract is, of course, inconsistent with the contract; but every breach by one party does not authorize the other to renounce it *in toto*.

(g) Breach of Contract

Where there is a contract involving mutual continuing duties on the part of both parties, and one party has breached, but has not repudiated, the contract, it is the duty of the other before rescission to give notice and opportunity to live up to the contract. A “slight or casual breach will not justify rescission.” However, the “inability of a party to perform a contract after it is made is, as a rule, a ground for rescinding it. The fact that substantial performance by one party is impossible or that a party is unable to perform a material part of the contract is a ground for rescission.”²⁵

Under the Uniform Commercial Code, a party can revoke his acceptance of the goods that are the subject of the contract.²⁶ What constitutes revocation of acceptance within a “reasonable” time is judged on a case-by-case basis. And, the “continued use” of the goods “after revocation” may be “wrongful,” but it does not follow that such continued use constitutes an acceptance of the goods. Many cases involve extensive use of automobiles and motor homes after revocation. The appellate courts “emphasize the practical consideration that an individual who buys an automobile or a motor home may very well be unable, without extraordinary financial difficulty, to tender the automobile or motor home and do without it until the litigation concerning it is completed.”²⁷

(h) Impossibility of Performance

The inability of a party to “perform a contract after it is made is, as a rule, a ground for rescinding it. The fact that substantial performance by one party is impossible or that a party is unable to perform a material part of the contract is a ground for rescission.”²⁸

(i) Other Grounds

Other grounds for rescinding a contract that have been recognized by Alabama's appellate courts include unconscionability and failure of one party to use his or her best efforts to perform his or her duties under the contract.

Alabama law provides no implicit standard of unconscionability. Thus, each case must be considered on its own facts. “Rescission of a contract for unconscionability is an extraordinary remedy usually reserved for the protection of the unsophisticated and uneducated.” Unconscionability “relates to contract terms that are oppressive. It is applicable to one-sided provisions, denying the contracting party any opportunity for meaningful choice.”²⁹

The supreme court held that an art firm “did not exercise its best efforts” to cause a limited-edition work to be printed so that the parties could approve and manually sign and number each print of the limited edition as soon as practicable and to sign a plate upon completion of the printing of the limited edition. This was based upon the Uniform Commercial Code³⁰ provision that when a time for performance is not specified, it is a “reasonable” time.³¹

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Footnotes

- 1 Hillcrest Center, Inc. v. Rone, 711 So. 2d 901, 906 (Ala. 1997), as modified on denial of reh'g, (Nov. 14, 1997).
- 2 Sheffield v. Andrews, 679 So. 2d 1052, 1053 (Ala. 1996). See also E. L. Stobin, Procuring signature by fraud as forgery, 11 A.L.R.3d 1076 (Originally published in 1967); Am. Jur. 2d, Deeds §§ 137, 139.
- 3 Eaton v. Waldrop, 45 So. 3d 371 (Ala. Civ. App. 2010).
- 4 Meyer v. Meyer, 952 So. 2d 384 (Ala. Civ. App. 2006).
- 5 Williston on Contracts § 70:125 at 612 (4th ed.), which was cited and quoted in Meyer v. Meyer, 952 So. 2d 384, 391 n.4 (Ala. Civ. App. 2006). See also Restatement Second, Contracts § 152(1) (1981) (“Where a mistake of both parties at the time a contract was made as to a basic assumption on which the contract was made has a material effect on the agreed exchange of performances, the contract is voidable by the adversely affected party unless he bears the risk of the mistake under the rule stated in § 154.”).
- 6 Williston on Contracts § 70:106 at 533 (4th ed.), which was cited and quoted in Meyer v. Meyer, 952 So. 2d 384, 391 n.4 (Ala. Civ. App. 2006). However, see West End Sav. Bank v. Goodwin, 223 Ala.

185, 135 So. 161 (1931) ("court will not reform a contract for a mere mistake of law," but "when the legal effect of the terms agreed upon by the parties to be employed in a written instrument, through a misapprehension or ignorance of their import, results in a contract different from that really entered into by them, the court of equity, in the exercise by its moral jurisdiction, will reform it").

Ala. Code § 8-1-2. See also *Clemons v. Mallett*, 445 So. 2d 276 (Ala. 1984) (One of the established grounds for reformation of an instrument is mutuality of mistake.).

Am. Jur. 2d, Contracts § 550.

Ex parte Perusini Const. Co., 242 Ala. 632, 635-636, 7 So. 2d 576, 578 (1942). See also *Strickland v. Rahaim*, 549 So. 2d 58 (Ala. 1989). 9 Ala. Code § 8-1-2. See also *Clemons v. Mallett*, 445 So. 2d 276 (Ala. 1984) (One of the established grounds for reformation of an instrument is mutuality of mistake.).

American-Traders' Nat. Bank v. Henderson, 222 Ala. 426, 133 So. 36 (1931).

See Ala. Code §§ 39-2-1 et seq.

Clark Const. Co., Inc. v. State of Alabama Highway Dept., 451 So. 2d 298, 301 (Ala. Civ. App. 1984).

Am. Jur. 2d, Contracts § 548.

Piedmont Land & Imp. Co. v. Piedmont Foundry & Machine Co., 96 Ala. 389, 11 So. 332, 333 (1892).

Drinkard v. Embalmers Supply Co., 244 Ala. 619, 620, 14 So. 2d 585, 586-587 (1943).

General Mills v. Carter, 29 Ala. App. 299, 301, 195 So. 303, 304 (1940).

Nelson v. Shelby Mfg. & Imp. Co., 96 Ala. 515, 11 So. 695, 700-701 (1892) (contract void under the Statute of Frauds need not be rescinded as long as it remains unexecuted).

Berry v. Dunn, 201 Ala. 275, 78 So. 51, 52 (1918).

May v. Draper, 220 Ala. 214, 124 So. 89, 90 (1929).

Am. Jur. 2d, Contracts § 564.

Stephenson v. Atlas Coal Co., 147 Ala. 432, 41 So. 301 (1906) But see *Alabama Football, Inc. v. Stabler*, 294 Ala. 551, 554, 319 So. 2d 678, 682 (1975). ("While it is true that financial inability to perform '... whether due to ... poverty, (or) financial panic ...,' does not excuse nonperformance of a contract, it is equally true that: 'The inability of a party to perform a contract after it is made is, as a rule, a ground for rescinding it. The fact that substantial performance by one party is impossible or that a party is unable to perform a material part of the contract is a ground for rescission'")

Coker v. Jackson, 591 So. 2d 61, 63 (Ala. 1991).

Am. Jur. 2d, Contracts § 566.

Birmingham News Co. v. Fitzgerald, 222 Ala. 386, 133 So. 31 (1931), quoting *McAllister-Coman Co. v. Mathews*, 167 Ala. 361, 52 So. 416, 417 (1910).

Alabama Football, Inc. v. Stabler, 294 Ala. 551, 554, 319 So. 2d 678, 681-682 (1975).

Ala. Code §§ 7-2-602 to 7-2-608.

Ex parte Stem, 571 So. 2d 1112, 1113-1115, 13 U.C.C. Rep. Serv. 2d 1070 (Ala. 1990), rev'g *Braden v. Stem*, 571 So. 2d 1110 (Ala. Civ. App. 1989).

Alabama Football, Inc. v. Stabler, 294 Ala. 551, 554, 319 So. 2d 678 (1975), citing the predecessor of Am. Jur. 2d, Contracts § 564 (Am. Jur. 2d, Contracts § 506).

Marshall v. Mercury Finance Co., 550 So. 2d 1026, 1027-1028 (Ala. Civ. App. 1989).

Ala. Code § 7-2-309.

Jackie Fine Arts, Inc. v. Berkowitz, 448 So. 2d 318, 321 (Ala. 1984).

Tilley's Alabama Equity § 10:5 (5th ed.)

Tilley's Alabama Equity June 2018 Update
Ally Windsor Howell, LL.M.

Chapter 10. Rescission of a Contract

§ 10:5. Election of remedies in rescission actions

"It is well settled under Alabama law that a plaintiff may present alternative, inconsistent, and mutually exclusive claims to the jury."¹ However, the plaintiff may recover under only one of these claims.² "Generally speaking, the effect of rescission is to extinguish the contract. The contract is annihilated so effectually that in contemplation of law it has never had any existence, even for the purpose of being broken. Accordingly, it has been said that a lawful rescission of an agreement puts an end to it for all purposes, not only to preclude the recovery of the contract price, but also to prevent the recovery of damages for breach of the contract."³

When a person is induced to enter into a contract by fraud, "he has an election of remedies, either (1) to rescind the contract and sue for his money back, in which event he must give up possession of the property and restore all the benefits he received under it, or (2) affirm the contract, and sue for damages for the deceit, when he may retain the property, and its other benefits."⁴ However, the supreme court has affirmed an award of punitive damages when the plaintiff rescinded a contract that was executed as a result of fraud in the inducement.⁵

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Footnotes

- 1 Sheffield v. Andrews, 679 So. 2d 1052, 1053 (Ala. 1996); Ex parte King, 591 So. 2d 464 (Ala. 1991).
- 2 Sheffield v. Andrews, 679 So. 2d 1052, 1053 (Ala. 1996); U. S. Fidelity & Guaranty Co. v. McKinnon, 356 So. 2d 600 (Ala. 1978).
- 3 Alabama Great Southern R. Co. v. Independent Oil Co., 230 Ala. 222, 160 So. 720, 722 (1935).
- 4 Hillcrest Center, Inc. v. Rone, 711 So. 2d 901, 906-907 (Ala. 1997), as modified on denial of reh'g, (Nov. 14, 1997).
- 5 Sheffield v. Andrews, 679 So. 2d 1052 (Ala. 1996).

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